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COUNTY COURT : NASSAU COUNTY
PART I

-----X
THE PEOPLE OF THE STATE OF NEW YORK

Indt# 91607

-against-

JOSEPH JACKSON,
Defendant.

-----X
Mineola, New York
November 4, 1996

B E F O R E:

HON. ABBEY L. BOKLAN,
County Court Judge

A P P E A R A N C E S:

Michael Walsh, ESQ.,
Assistant District Attorney,
For the People

Scott Brettschneider, ESQ.,
For the Defendant

(Minutes of Jury Trial)

RICHARD D. GLEN, CSR
Official Court Reporter

COUNTY CLERK
OF NASSAU COUNTY

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2 THE CLERK: Case on trial.

3 People vs. Joseph Jackson, Indictment Number
4 91607.

5 People ready?

6 MR. WALSH: People are ready.

7 THE CLERK: Defendant ready?

8 MR. BRETTSCHEIDER: Yes, your Honor.

9 THE COURT: All right. Okay, good morning
10 everyone. For a while I didn't think we would
11 make it this morning. The calendars are getting
12 so immense.

13 The jury is in route. We have some further
14 preliminaries to do before their arrival.

15 On our other preliminaries, counselor, your
16 client waived his Antommarchi rights, and you
17 indicated you would like the voir dire recorded.

18 MR. BRETTSCHEIDER: Yes.

19 THE COURT: I told the court reporter. We
20 have, we'll have a different one tomorrow. I'll
21 ask this court reporter just to remind me to tell
22 the new reporter tomorrow to record as well.

23 We have a few things to go over that I would
24 like you to approach the bench on so we can
25 discuss them, such as the length of time, et

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2 cetera. We can do that now.

3 (Conference.)

4 THE COURT: All right. We'll go over a few
5 of the things now that we discussed at the
6 bench.

7 It's my understanding, People, that you are
8 not consenting to the jury not being sequestered,
9 is that correct?

10 MR. WALSH: That's correct.

11 THE COURT: So, without the consent, of
12 course, of both parties I have to sequester the
13 jury.

14 Mr. Brettschneider: There was a motion
15 filed by the District Attorney's office for the
16 use of the felony exam minutes, and it's my
17 understanding that you are not contesting their
18 right to use them, is that correct?

19 MR. BRETTSCHEIDER: That's correct, your
20 Honor.

21 THE COURT: All right. We went over the
22 schedule at the bench, and it's my understanding
23 as well that both of you feel, if I tell the jury
24 we'll be finished early to mid-December, that
25 would be accurate?

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2 MR. WALSH: I believe so, your Honor.

3 THE COURT: Mr. Brettschneider?

4 MR. BRETTSCHEIDER: Yes.

5 THE COURT: Now, a witness list.

6 People, do you have one for me?

7 MR. WALSH: I do, your Honor.

8 (Hands.)

9 THE COURT: Have you had the opportunity to
10 give a copy to Mr. Brettschneider?

11 MR. WALSH: I'm doing so right now.

12 (Hands.)

13 THE COURT: Mr. Brettschneider, as we
14 discussed on the prior date, I don't require
15 defense counsel to give me a list. However, I'm
16 very happy to have one to inquire of the jury.

17 Is there any list that you wish to submit?

18 MR. BRETTSCHEIDER: No, your Honor.

19 THE COURT: All right. We have a Sandoval
20 to do. Let's do that.

21 I have found the easiest way is if the
22 District Attorney will indicate which ones they
23 want to use, and then I'll give defense attorney
24 the opportunity to be heard, and then I'll give
25 you the opportunity to be heard further if you so

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2 wish.

3 MR. WALSH: Thank you, your Honor.

4 Your Honor, based upon my reading of the
5 defendant's NYSIIS, it appears to me that there
6 are seven prior convictions that appear on the
7 NYSIIS; one actually for a violation, six
8 criminal convictions, one of those for a Class E
9 felony, attempted assault in the third degree.

10 I would be asking the Court's permission to
11 use those seven prior convictions that appear on
12 the rap sheet, three of those as far as
13 cross-examination into what the crime was and the
14 underlying facts.

15 I would also be asking the Court with
16 respect to his felony conviction for permission
17 to inquire of the defendant whether or not he was
18 ever convicted of a felony without going into
19 the, either the nature of that conviction or the
20 underlying fact of that conviction.

21 THE COURT: It's easier for me if you go
22 down the sheet.

23 MR. WALSH: Sure.

24 THE COURT: One at a time as to which ones
25 you are asking for. Are you starting --

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2 MR. WALSH: The juvenile delinquent, I would
3 not be asking for permission to cross-examine him
4 as to anything relating to that juvenile
5 delinquent arrest for burglary in the 2nd degree.

6 THE COURT: All right.

7 MR. WALSH: The next conviction that appears
8 on the rap sheet is one for criminal possession
9 of a weapon in the 4th degree. My understanding
10 is that that involved the use or the possession
11 of metal knuckles.

12 I will not be asking permission to inquire
13 into that particular prior conviction.

14 THE COURT: All right.

15 MR. WALSH: The next conviction appearing on
16 the NYSIIS is the one from December 21, 1988. It
17 is the conviction for assault in the 3rd degree,
18 a Class A misdemeanor.

19 I would also not be seeking permission of
20 the Court to inquire as to that particular
21 conviction.

22 THE COURT: All right.

23 MR. WALSH: The next conviction that appears
24 on the NYSIIS is one for criminal facilitation in
25 the 4th degree.

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2 I am going to ask the Court for permission
3 to inquire of the defendant into that criminal
4 conviction. He received a sentence of nine
5 months. The conviction was for a Class A
6 misdemeanor.

7 Does the Court wish me to advise the Court
8 of the underlying facts of that case?

9 THE COURT: Yes, thank you.

10 MR. WALSH: Your Honor, that was an incident
11 where the defendant pled guilty on November 16,
12 1989 based upon an incident that occurred in July
13 of 1989.

14 There was some cross-examination of this
15 incident during the hearings. In this case the
16 facts, as I am aware of them, are that the
17 defendant was essentially helping an individual
18 sell crack/cocaine.

19 He approached a man on the street, the
20 defendant did, who turned out to be an undercover
21 police officer, asking that undercover police
22 officer what it was that he wanted. When the
23 undercover officer told the defendant that he
24 wanted to buy crack/cocaine, the defendant then
25 escorted him over to a third person and

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2 instructed that third person to sell cocaine to
3 the undercover officer.

4 He told him to, "Give my man a dime." That
5 was the phrase that was allegedly used. And the
6 third person then went about selling the
7 crack/cocaine to the undercover police officer.

8 The next conviction that appears on the
9 NYSIIS is one for petit larceny. And I believe
10 there was also an assault 3rd conviction in
11 connection with that same case. The NYSIIS only
12 reflects the conviction for petit larceny.

13 There was also a plea of guilty to assault
14 3rd in that same case. That's something that was
15 also brought up at the time of, of the hearings,
16 your Honor. I would be asking the Court's
17 permission to cross-examine the defendant on that
18 case.

19 That incident occurred on March 31, 1990
20 outside of a bar in Roosevelt. It started with
21 the defendant having an argument with an
22 individual by the name of Roosevelt Alexander.

23 Allegedly the defendant slapped him in the
24 head outside of the bar. When Mr. Alexander hit
25 the defendant back he then, "he" being Mr.

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2 Alexander, ran with the defendant and two of the
3 defendant's friends chasing him.

4 They chased him to a senior citizens home
5 where the victim attempted to climb over a fence
6 to get away from the defendant and the two
7 individuals he was with. The defendant actually
8 chased him over that fence. When the defendant
9 caught him, the defendant began hitting Mr.
10 Alexander in the head.

11 During the course of that assault one of the
12 defendant's associates, Mr. Davis, took a gold
13 chain from the neck of Mr. Alexander. And the
14 defendant allegedly assisted Mr. Davis in doing
15 so by continuing to hit the victim.

16 The victim was hospitalized for the injuries
17 that he, that he suffered and the defendant plead
18 guilty to not only the assault 3rd degree but the
19 petit larceny for the, the theft of the chain as
20 well.

21 The next conviction appearing on the NYSIIS
22 is one for criminal possession of a controlled
23 substance in the 7th degree. Now, the NYSIIS
24 reflects a charge of criminal sale of a
25 controlled substance in the 3rd degree. It also

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2 reflects a sentence of ten months incarceration,
3 but I don't believe that the rap sheet indicates
4 what the conviction was for.

5 THE COURT: No.

6 MR. WALSH: I have the file from our office
7 on that case. I researched the records and the
8 defendant was, in fact, convicted of criminal
9 possession of a controlled substance in the 7th
10 degree, a Class A misdemeanor.

11 That is the -- this is the third criminal
12 conviction which I would be asking the Court for
13 permission to use on cross-examination.

14 It involved an incident that occurred in
15 August of 1990 in Roosevelt. Once again, it
16 involved the sale of crack/cocaine. There was a
17 man who turned out to be an undercover police
18 officer who asked the defendant whether he had
19 works. The defendant asked the undercover
20 officer what he was looking for.

21 The undercover officer said he wanted a dime
22 of crack/cocaine. And at that time the defendant
23 pointed out another individual who was in the
24 vicinity who was sitting on a bicycle and told
25 the undercover police officer to see the guy on

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2 the bicycle over there.

3 The undercover police officer went to the
4 man on the bicycle, bought cocaine from the
5 person on the bicycle for \$10.00.

6 So those, those essentially are the three I
7 wish to use, your Honor.

8 I believe there is one prior assault charge
9 that appears on the NYSIIS from October of 1993.
10 There's no disposition reported. I'm aware that
11 that resulted in a conviction for harassment as a
12 violation, and I would not be seeking permission
13 to use that.

14 Other than the three I brought to the
15 attention of the Court as far as the underlying
16 facts, again going back to the second conviction
17 that appears on the NYSIIS for a felony,
18 attempted assault in the 2nd degree, while I
19 would not ask the Court to use the underlying
20 facts or the nature of that conviction, given the
21 similarity to what we're trying here, I would ask
22 for the Court's permission to inquire as to
23 whether or not the defendant had ever been
24 convicted of a felony.

25 THE COURT: Thank you. Mr. Brettschneider?

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2 MR. BRETTSCHEIDER: Your Honor, I would
3 consent to the Sandoval compromise with regard to
4 the felony conviction.

5 THE COURT: All right.

6 MR. BRETTSCHEIDER: Your Honor, what next
7 comes about is obviously a bigger question which
8 I, I will address now:

9 When I reviewed the hearing minutes, there
10 obviously is a question as to why Mr. Jackson was
11 brought into the precinct on, on the date and the
12 day subsequent in which he gave his, his
13 statement to the police. There was a question as
14 to whether he was arrested with regard to a
15 criminal sale of a controlled substance.

16 And what I, what -- I would like a ruling at
17 this time, and I would make a motion in limini,
18 that the People not be allowed to bring up the
19 reason for that arrest and the reason that he was
20 in the police precinct, and that any information
21 that was testified to with regard to the
22 narcotics detectives who testified at the
23 hearing, with regard to the identification made
24 of Mr. Jackson, by both the confidential
25 informant and by the undercover police officers

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2 in that case, that all of that be precluded from
3 this trial.

4 And the reason I'm asking that is that if
5 the Court should rule that the People be allowed
6 to bring in the criminal facilitation charge and
7 the criminal possession in the 7th degree
8 charges, I think that would have an impact upon
9 my client and also would have an impact based on
10 the evidence that this jury would hear with
11 regard to the incidents that happened with regard
12 to the the drug sale that brought him into the
13 precinct on that date.

14 So, based on, on the Court's ruling with
15 regard to that matter, I would oppose the People
16 being allowed to go into the criminal
17 facilitation and the criminal possession in the
18 7th degree.

19 I would also be opposed to them bringing in
20 the petit larceny as again, I would ask for a
21 Sandoval compromise and just ask whether my
22 client was convicted of a misdemeanor.

23 There are certain aspects of that case with
24 regard to the assault, and I have -- the only
25 thing that I see here on the rap sheet that I

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2 have is that he was convicted of petit larceny.
3 I don't see anything with regard to him pleading
4 guilty to an assault charge on the April 4th --
5 excuse me, on the March 31, 1990 arrest.

6 Not -- I'm not denying, you know, that may
7 have happened, and I don't know what certificates
8 of disposition Mr. Walsh has with regard to that
9 particular case, but at this point I would oppose
10 that.

11 THE COURT: Mr. Walsh, I would like you to
12 respond to the issue of whether you will be
13 bringing up any evidence of the drug sale for
14 the, for which the defendant was brought into the
15 precinct.

16 MR. WALSH: I have no intention to, your
17 Honor. I don't think it really relates to this
18 case. It, of course, it, it came out during the
19 hearings because we wanted to consolidate the
20 hearings for the purpose of doing it all at once.

21 But as far as the trial is concerned, I
22 don't see any relevance. I don't see the
23 relevance Mr. Jackson's open drug case has to
24 this particular case. I don't have any intention
25 of, of introducing any of that evidence.

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2 As far as I'm concerned, for the purpose of
3 this case, Mr. Jackson was arrested on the date
4 he was arrested because he was a suspect in a
5 homicide.

6 It's always been my contention that the
7 detectives had probable cause to place him under
8 arrest for the homicide on that date in addition
9 to any open warrants he may have had, which I
10 will not bring up anyway.

11 I have no intention of introducing any
12 evidence of the open drug case.

13 THE COURT: You have your answer, Mr.
14 Brettschneider.

15 MR. BRETTSCHEIDER: Your Honor, while on
16 this subject, I would also like to know whether
17 the People are going to introduce any evidence
18 with regard to the -- that my client took a
19 polygraph examination.

20 There was testimony in the hearing minutes
21 with regard to a polygraph examination.
22 Certainly there's going to be a question as to
23 the period of time that my client was in Mineola
24 in custody. And certainly there may be a
25 situation in which we're going to have to deal

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2 with a period of time in which the police are
3 going to say, We're waiting for a polygraph test.

4 But, of course, I would ask that not be
5 permitted into evidence. And I think that there
6 has to be some sort of explanation to the jury
7 other than that or, or some sort of language
8 which would allow the jury to know that my client
9 was in custody for that period of time without
10 knowing there was a polygraph test that was
11 conducted in this case.

12 THE COURT: Before I hear from Mr. Walsh, I
13 have a further question on that issue: Are you
14 going to be contesting the voluntariness of the
15 statement before the jury?

16 MR. BRETTSCHEIDER: Yes.

17 THE COURT: Of course, you have the right to
18 do that.

19 MR. BRETTSCHEIDER: Yes.

20 THE COURT: Mr. Walsh?

21 MR. WALSH: Your Honor, I have, I've thought
22 about this, and I've had the opportunity to
23 review a couple of prior trials that were done, I
24 don't know if one was before your Honor, and
25 these detectives were involved in it as well, and

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2 I think there's a way around the problem.

3 I have minutes from an old trial that I was
4 going to guide myself by as far as how to
5 approach this particular issue.

6 Basically, and I'll show the minutes to Mr.
7 Brettschneider and the Court as well and we can
8 discuss this further, but basically I would have
9 Detective Abbondandolo testify that he and
10 Dempsey spoke with the defendant up until, I
11 believe on that date, about 6 o'clock when the
12 defendant was asked to take a polygraph. Of
13 course, there will be no mention of the
14 polygraph.

15 Detective Abbondandolo will testify in sum
16 and substance that he was taken, the defendant
17 was taken to meet a Detective Kosior for further
18 interviewing at that point in time. I may have
19 Detective Kosior testify that he interviewed the
20 defendant, that he had asked the defendant to
21 sign a consent form, that he had a conversation
22 with him, but I don't have any intention at this
23 point in time of bringing up the fact that the
24 defendant was asked to or took a polygraph, and
25 certainly, I don't intend to introduce any

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2 results.

3 THE COURT: Of course, we know no results
4 can come in, but it's a, awhile since I did the
5 hearing, but it was my recollection that the
6 detectives later on, in fact, were saying to the
7 defendant that you failed it, you are lying, we
8 know you are lying.

9 We have to be very careful.

10 MR. WALSH: Right. I understand. And I, I
11 have already discussed that with Detective
12 Abbondandolo, and I'll certainly discuss it with
13 him further.

14 I certainly think that I should be permitted
15 to inquire of Detective Abbondandolo and Dempsey
16 whether or not they confronted the defendant in
17 the case and whether they accused him of lying.

18 I don't know that I have to bring up the
19 fact that there was a polygraph result that
20 caused them to accuse the defendant of lying.

21 THE COURT: Well, I'm in agreement. You can
22 -- the detective can say, We don't believe him.
23 My only concern is that they don't say that you
24 failed the polygraph test.

25 MR. WALSH: Right. We don't believe you

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2 because you took a polygraph. I don't intend to
3 to do that.

4 MR. BRETTSCHEIDER: Again, your Honor, it's
5 just a matter of what words you use. I mean, I
6 certainly don't want the jury to speculate as to
7 what evidence these detectives may have had.

8 I would prefer just that they couch it in
9 that they told the defendant that they did not
10 believe him and that they believed that he was
11 lying, rather than say we have other evidence.

12 Because certainly, there is always the
13 question as to a polygraph whether the -- I mean,
14 whether it was properly administered and all
15 kinds of things that, that go along with it.

16 So, I would just leave it at that point,
17 that, that they confronted him and they said they
18 did not believe him.

19 THE COURT: Well, they have other, they have
20 evidence other than -- sir, you are not a
21 prospective juror, are you?

22 A VOICE: No.

23 THE COURT: Okay, then welcome. You can sit
24 down.

25 They have additional evidence, including

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2 statements he had made to relatives, et cetera,
3 allegedly. The fact that we have evidence
4 doesn't necessarily mean a polygraph.

5 My concern is that there be no mention of a
6 polygraph or any indication -- they can, of
7 course, say we have a a detective who is not here
8 who will be coming in. Will you be willing to
9 talk to him? Which, of course, is the polygraph
10 technician, without saying "polygraph
11 technician".

12 I think Mr. Walsh basically understands his
13 responsibility and would be willing to discuss it
14 with you --

15 MR. WALSH: I will.

16 THE COURT: -- off the record how he intends
17 to put it in, and then if you have any issues
18 with what he intends to do, you can bring it to
19 the Court's attention.

20 MR. WALSH: I don't intend to play games by
21 mentioning other evidence that's left unexplained
22 that would be hanging out there for the jury to
23 speculate on.

24 MR. BRETTSCHEIDER: Okay.

25 THE COURT: All right.

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2 Anything further on the Sandoval?

3 MR. BETTSCHNEIDER: No.

4 THE COURT: All right. Then this is my
5 ruling as follows:

6 On the attempted assault where you wish to
7 inquire simply whether he was convicted of a
8 felony, the compromise you may do that; and that
9 is also on consent.

10 You may use the conviction for the petit
11 larceny but you may not go into the underlying
12 which involves the situation of the assault and
13 you may not say, he's been convicted of an
14 assault as well.

15 MR. WALSH: Yes, your Honor.

16 THE COURT: Unless, of course, he denies it,
17 should he take the stand.

18 MR. WALSH: Yes, your Honor.

19 THE COURT: If he denies the conviction for
20 petit larceny then, of course, you would have the
21 right to inquiry further.

22 On the '89 criminal facilitation, you may
23 inquire as to the conviction as well as the
24 underlying facts.

25 And the same with '94, because he introduced

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2 the police officer to buy crack/cocaine, I will
3 allow it because that goes more to his
4 credibility than for his own personal use.

5 Any questions on the Sandoval decision?

6 MR. WALSH: No. Thank you.

7 MR. BRETTSCHEIDER: No.

8 THE COURT: All right.

9 Does anyone have anything else to do? We
10 had indicated previously that you wanted in the
11 Court's voir dire that they may not consider the
12 defendant's failure to take the stand.

13 MR. BRETTSCHEIDER: Yes.

14 THE COURT: Anything else?

15 (No response.)

16 THE COURT: Can someone tell the jurors who
17 are standing outside, please, that we're waiting
18 for additional jurors, and that is the reason for
19 the delay.

20 All right. Thank you very much.

21 (Recess.)

22 THE CLERK: Bring the jury in, please.

23 (Prospective panel in the courtroom.)

24 THE COURT: Good afternoon, ladies and
25 gentlemen. Sorry to those of you who came on the

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2 earlier buses and were standing in the halls for
3 so long but it takes the buses a long time. We
4 had to wait for everyone to begin.

5 Welcome to County Court. My name is Judge
6 Abbey Boklan, and I will be the Presiding Judge
7 at this trial.

8 Can all of you hear me?

9 (No response.)

10 THE COURT: Some of you are about to be
11 selected as jurors. I will explain briefly what
12 the trial involves and what roles the judge and
13 the jury play. We will also determine who will
14 actually sit as a juror in this case.

15 Relax, be comfortable, and I'll try to
16 familiarize you with what is about to happen.
17 We're only going to go a little while. We're
18 already into the luncheon hour, but I want to at
19 least get started, especially for those who have
20 been standing here.

21 The trial which is about to be commenced is
22 a criminal action entitled the People of the
23 State of New York against Joseph Jackson who is
24 referred to as the defendant.

25 The trial involves the following charges,

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2 the following allegations: Murder in the 2nd
3 degree, with the alleged victim being Steven
4 Jason and the alleged weapon a handgun;
5 intimidating a victim or witness in the 1st
6 degree; and hindering prosecution in the 2nd
7 degree.

8 As jurors, you are going to be called upon
9 to determine whether or not the evidence which
10 you shall see and hear in this case establishes
11 the defendant's guilt of the charges beyond a
12 reasonable doubt.

13 In order to do this, you will have to
14 evaluate all of the evidence at the end of the
15 trial to determine whether what you have heard
16 from the witnesses and seen as exhibits is true
17 and what it all means.

18 This is called finding the facts. That will
19 be your function at this trial. I will find no
20 facts in this trial.

21 Your ultimate decision is called a verdict.
22 Your verdict will either be guilty or not
23 guilty. An attorney presents the evidence
24 usually by calling witnesses and only you can
25 decide what really happened and the verdict as to

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2 each of the counts will remain your decision
3 alone.

4 As Judge I will make no determination of
5 whether the defendant is guilty or not guilty.
6 My role at trial is to ensure that you reach your
7 verdict in accordance with the law. And I will
8 explain to you what the law is as to all the
9 issues at this trial.

10 I may have to rule on questions concerning
11 the conduct of the trial. Those rulings have
12 nothing to do with whether the defendant is
13 guilty or not guilty.

14 I may also rule on questions concerning what
15 evidence you may consider and for what purpose.
16 When I make a ruling concerning whether you may
17 hear some testimony or see some exhibit which is
18 offered as evidence, I will be ruling on whether
19 or not you are permitted to hear it or see it as
20 a matter of law.

21 Likewise, if I instruct you to disregard
22 something you might have heard, I will do so
23 because that's the law. None of my rulings
24 should be taken by you as any indication at all
25 of whether you should believe any or all of what

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2 is offered as evidence or that the defendant is
3 guilty or not guilty. That is solely your job to
4 determine.

5 But you must accept the law as I give it to
6 you if the defendant and the People are to have
7 the fair trial to which they are entitled.

8 The People are represented by the District
9 Attorney of this county, Mr. Denis Dillon. Mr.
10 Michael Walsh, who is now standing, an assistant
11 district attorney, will be presenting the
12 People's case.

13 The defendant is represented by his
14 attorney, Mr. Brettschneider, who is now standing
15 as well.

16 MR. BRETTSCHEIDER: Good afternoon.

17 THE COURT: And sitting next to Mr.
18 Brettschneider is the defendant, Mr. Joseph
19 Jackson. You may stand up, Mr. Jackson, as
20 well.

21 The fact that this action is brought in the
22 name of the People or that the evidence is
23 presented by a public official does not in any
24 way indicate that the public wants a specific
25 verdict. The People of this state are served by

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2 whatever verdict is justified by the evidence.

3 You may hear reference to the fact that the
4 defendant was indicted by a grand jury. This too
5 is not and must not be taken as any evidence of
6 guilt. As a trial jury you must consider an
7 indictment as simply a piece of paper by which a
8 defendant is accused of a crime.

9 Only you, as members of the trial jury, can
10 determine guilt, and the defendant is presumed
11 innocent unless and until you do find him
12 guilty.

13 Serving on a jury is a vital function for
14 citizens under our system of laws. It is also a
15 very great responsibility, that is, to accord the
16 defendant and the People a fair trial. In order
17 to do so you must be free from any preconceived
18 notions or any sympathies or prejudices that
19 might prevent you from returning a fair and just
20 verdict based solely on the evidence or the lack
21 of evidence.

22 To help to ensure this our first order of
23 business is to conduct an examination of the
24 prospective jurors. I will ask some questions of
25 you and after I am finished the attorneys for

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2 both parties will ask questions as well.

3 The purpose of the questions is not to
4 embarrass you or to discover any personal details
5 about your lives. It is simply to determine
6 whether or not you are qualified to sit as jurors
7 in this case.

8 A number of you will not be selected. Some
9 of you may be excused because you are not
10 qualified to sit as a matter of law. That is
11 called excused for cause. Others may be excused
12 peremptorily which means by one of the attorneys
13 without any cause being given.

14 Being excused is not a reflection on you
15 either as a citizen or as a person. It is simply
16 a determination under the rules by one or more of
17 the parties or by me that you are not to sit on
18 this particular case.

19 Now, I'm sure all of you are concerned about
20 scheduling. Let me tell you a little bit of how
21 this trial will run.

22 First of all, as you know we have many
23 holidays coming up. First one being tomorrow,
24 Election Day. The Court will not be in session.

25 Additionally, on Monday, the 11th, we have

1 Peo. vs. Jackson

2 Veterans Day. The Court will not be in session.

3 And also for the month of December we will
4 not been working on Fridays on this trial --
5 excuse me, the month of November we will not be
6 working Fridays.

7 So, basically, the month of November, and I
8 must not forget Thanksgiving, so the month of
9 November we will not actually be working on this
10 case seven working days, will not be on this
11 case.

12 Let me repeat again, no Fridays in
13 November. Obviously not Thanksgiving, not
14 Election Day and not Veterans Day.

15 Even taking into consideration the fact that
16 we will not be working on these days and that
17 this is a case involving a charge of murder,
18 which is always a more complicated case, usually
19 a trial takes longer, the attorneys have assured
20 me that we will finish this case no later than
21 mid-December.

22 Now, how do the days themselves work? We
23 here in Nassau County were one of the originators
24 of a system used throughout the state. It's
25 called the individual assignment system. It's a

1 Peo. vs. Jackson

2 fancy name, but what it means is a judge gets a
3 case for all purposes from the very beginning.

4 So, at the same time that I'm trying this
5 case I am trying to juggle approximately 150
6 other cases that I'm doing things on such as
7 sentencing, motions, pleas, et cetera.

8 So, you will have your early morning to
9 yourselves when we are working. I find that it's
10 most convenient for jurors and for me to get my
11 work out of the way first thing in the morning
12 and call you in about 11 o'clock. So, you'll
13 have your early mornings.

14 Normally, we break for lunch between the
15 hours of 12:30 and 2. And I will try to have
16 you, when you are not deliberating, out of the
17 courtroom at approximately 4:30, quarter to 5
18 each day.

19 Now, when you are deliberating, just during
20 final deliberations only, ladies and gentlemen,
21 the jurors will be sequestered at all times.

22 This means that should the jury continue to
23 deliberate for more than one day, then our law
24 requires hotel accommodations be made available
25 and the jury be sequestered each night before

1 Peo. vs. Jackson

2 resuming their deliberations on each following
3 day.

4 Now, I will not be doing the examination of
5 the individual jurors until after the luncheon
6 recess, but after the luncheon recess I want to
7 make sure that none of you has any pressing
8 family or business obligations or any physical
9 problems that would prevent you from serving on
10 this jury.

11 Please, do not seek to avoid jury service
12 because it is inconvenient. I regret the
13 inconvenience, but our system of trial by jury,
14 one of the most basic elements of our whole
15 system of justice depends upon citizens who are
16 willing to sacrifice their time when called upon
17 to judge another person.

18 Also, ladies and gentlemen, being excused
19 from this trial does not excuse you from jury
20 duty. It only means you go back to Central Jury
21 when you are excused from this case.

22 I'm going to ask the clerk to swear all of
23 you to answer truthfully and then we'll break
24 after that for the luncheon recess.

25 THE CLERK: Ladies and gentlemen, please

1 Peo. vs. Jackson

2 rise and raise your right hand.

3 (Jury sworn.)

4 THE COURT: Please be seated for one
5 moment.

6 Ladies and gentlemen, you have
7 questionnaires. I don't know if all of you had
8 the opportunity to fill them out. Please bring
9 them back with you after the luncheon recess.
10 Finish them over the luncheon recess, if you
11 haven't had the opportunity to do it previously.

12 And also one other thing if you could please
13 do for us over the luncheon recess, not now, is
14 to separate the pages for us if you have not
15 already done that.

16 I'm going to give you now some brief
17 admonitions: Do not discuss the case among
18 yourselves or with anyone else.

19 Do not read or listen to any accounts or
20 discussions of the case reported by newspapers or
21 other news media.

22 Do not visit or view the premise or any
23 place the offenses charged were allegedly
24 committed or any other premises or place involved
25 in the case.

1 Peo. vs. Jackson

2 Promptly report to the Court any incident
3 involving any attempt by any person to influence
4 any member of the jury or to discuss the case.

5 Do not form any opinions. Keep an open mind
6 until the case is completed.

7 We'll see you outside the courtroom at 2
8 o'clock. Have a good lunch. We'll see you
9 then.

10 (Jury out.)

11 (Recess.)

12 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

13 THE COURT: Good afternoon, ladies and
14 gentlemen. Before we recessed I had told you a
15 little bit about the trial schedule and, of
16 course, a need for jurors such as yourselves to
17 serve, but if any of you cannot serve for a
18 reason, now please raise your hand.

19 All right. We'll hear you one at a time at
20 the bench. The court officer will line you up.

21 Counsel, please approach.

22 (Following occurred at sidebar:)

23 (Individual excuses were heard at the bench.)

24 (Open court.)

25 THE COURT: Ladies and gentlemen, thank you

1 Peo. vs. Jackson

2 very much for remaining, even those who are
3 remaining reluctantly. We need jurors. We
4 realize that this is a burden, but we would have
5 to shut down our entire criminal justice system
6 if people would not be willing to sit.

7 Now, at this time the law requires that the
8 names of 12 of you be drawn and those persons
9 take seats in the jury box.

10 And, ladies and gentlemen, those of you who
11 are not selected right now, I ask you to listen
12 carefully to the questions. You will find that
13 after the first round we move much more rapidly
14 and it's very likely that you will be asked some
15 of the same questions.

16 I have actually 14 seats in my jury box, so
17 we're now going to call 14 of you to come into
18 the box. Please have your questionnaires ready
19 for us when you are called.

20 (Box filled.)

21 THE COURT: Some of you might have heard me
22 say it when you were called to the bench, if not
23 if it's any consolation to any of you, misery
24 loves company or whatever you want to call it, I
25 have already filled out my jury questionnaire and

1 Peo. vs. Jackson

2 I am going to be expected to be called for jury
3 service as well,

4 I will have to shut down my Part. And it's
5 my understanding that the chief judge of the
6 state was also called for jury duty. We all now
7 share equally, which is a little different.

8 My first series of questions will concern
9 your backgrounds in order to determine anything
10 that may give rise to a feeling or an attitude
11 that might prevent you from judging this case
12 fairly.

13 Your answers to these questions will not
14 necessarily qualify you or disqualify you. If
15 any of you wishes to respond affirmatively,
16 either yes or no or you are not sure, please
17 raise your hand as soon as I complete the
18 question.

19 And if you don't understand the question,
20 say so. You may ask to approach the bench and
21 respond to any question you may prefer to discuss
22 privately.

23 The defendant, the defendant's attorney, the
24 prosecuting attorney have all been identified to
25 you. Do any of you know any of these

1 Peo. vs. Jackson

2 participants to the proceedings?

3 (No response.)

4 THE COURT: Now, among the witnesses who may
5 be called in the case are the following, and I
6 caution you that my mentioning the name imposes
7 no burden on either side to call that person as a
8 witness nor does it mean that the list may not be
9 expanded:

10 Detective Gary Abbondandolo, Homicide Squad;
11 Detective Robert Dempsey, Homicide Squad; these
12 are all Nassau County; Detective Jerry Mullen,
13 also of the same squad; Detective Peter Donato,
14 same squad; Police Officer Richard Paulik of the
15 Freeport Police Department; Police Officer
16 Michael Pomorico of the Freeport Police
17 Department; Detective Joseph Marino, Crime Scene
18 Search Section, Nassau County Police Department;
19 Detective Nicholas Mattia, Scientific
20 Investigation Bureau of the Nassau County Police
21 Department; Mr. Michael Herts, whose a retired
22 detective initially of the 1st Squad, Nassau
23 County Police Department; Detective Brian Parpan,
24 Homicide Squad; Detective Frank Allaire, 1st
25 Squad Nassau County, Detective William Tweedie

1 Peo. vs. Jackson

2 1st Squad, Nassau County Police Department;
3 Detective Edward Haggerty, Freeport Police
4 Department; Mr. William Wallace, A.D.A., Nassau
5 County District Attorney's Office, Michael
6 Dimartino, M.D., Deputy Medical Examiner; Nassau
7 County Nassau Clerk's Office, Mr. Christopher M.
8 Jordan; Court Reporter, Miss Isabelle Vailes;
9 Mrs. Skwanitra Witherspoon. First name is
10 spelled S-K-W-A-N-I-T-R-A, and Witherspoon is
11 W-I-T-H-E-R-S-P-O-O-N; Mr. Peddy, that's spelled
12 P-E-D-D-Y Jenkins; Mr. Tyrone Isaac; and Mr. Roy
13 Isaac.

14 Do any of you know any of the prospective
15 witnesses in this case?

16 (No response.)

17 THE COURT: Now, I've told you very little
18 about this case. I've told you the nature of the
19 charges. The day, the alleged date of the crime
20 was March 20, 1994.

21 I told you that the alleged victim is Steven
22 Jason. And in the third count, the hindering
23 prosecution count, it's alleged that the
24 defendant rendered criminal assistance to one,
25 Tony Jackson.

1 Peo. vs. Jackson

2 Do any of you know anything about this case
3 other than what we have told you here in the
4 courtroom?

5 (No response.)

6 (Voir Dire examination by the Court.)

7 THE COURT: After we take a short recess you
8 will be asked various questions by the attorneys
9 starting with the assistant district attorney.
10 Their questions, like mine, are only designed to
11 determine whether they think you are qualified to
12 sit in this case.

13 If they inadvertently ask you a question
14 which is embarrassing or very personal to you,
15 you may say so. If the question is not proper, I
16 will tell you that you do not have to answer it.
17 And if the answer involves some personal
18 information I will permit you to answer it in
19 private rather than in open court.

20 You are sworn to tell the truth and must
21 answer every question truthfully unless I rule
22 that it is not necessary to answer.

23 We'll take now approximately a 5 to 10
24 minute recess and then we'll resume again.

25 Please take the jury out.

1 Peo. vs. Jackson

2 (Recess.)

3 MR. COURT: Mr. Walsh.

4 MR. WALSH: Thank you.

5 THE COURT: Can someone help him with the
6 lectern.

7 Ladies and gentlemen, just so you
8 understand, I give the attorneys 20 minutes the
9 first round, 15 minutes every round thereafter.

10 So, when I say "one minute," that is just me
11 giving them a one minute warning.

12 Begin.

13 (Voir dire examination by Mr. Walsh.)

14 THE COURT: Thank you, Mr. Walsh.

15 Mr. Brettschneider, is the jury board up
16 there?

17 MR. WALSH: No, it's not.

18 MR. BRETTSCHEIDER: I don't need it.

19 (Voir dire examination by Mr. Brettschneider.)

20 (Following occurred at sidebar:)

21 THE COURT: Each side has 20 preempts. The
22 first 12, first 12 people in the box first
23 through Maloney, okay.

24 Challenges cause, People?

25 MR. WALSH: Before we do that, I just have

1 Peo. vs. Jackson

2 one question: I don't know if I heard correctly
3 what somebody said, and I was wondering if
4 anybody can help me.

5 Mr. Harris, number 6, something about a
6 background check?

7 MR. BRETTSCHEIDER: Yes.

8 MR. WALSH: At the end.

9 MR. BRETTSCHEIDER: I was afraid to follow
10 up on that.

11 THE COURT: He said he would give a
12 background check to everybody to check them out.

13 MR. WALSH: Right. That is what I thought
14 he said.

15 THE COURT: If you want the exact words, we
16 can read it back to you.

17 MR. WALSH: That's what I thought I heard.
18 It was a little surprising, that's all. So, I
19 thought I would ask. Okay.

20 THE COURT: Cause, first 12?

21 MR. WALSH: Number 3, Mr. Shelton (Ph.)

22 MR. BRETTSCHEIDER: Consent.

23 THE COURT: Granted.

24 MR. WALSH: I don't know if counsel agrees
25 but I would also challenge Mr. Harris in light of

1 Peo. vs. Jackson

2 that last comment.

3 MR. BRETTSCHEIDER: Consent.

4 THE COURT: Consent.

5 MR. WALSH: And number 11, Miss Berrucum

6 (Ph.) with her language difficulty.

7 MR. BRETTSCHEIDER: Consent.

8 THE COURT: Consent.

9 MR. WALSH: That's all I have.

10 THE COURT: All right. Cause for you?

11 MR. BRETTSCHEIDER: No.

12 THE COURT: Peremptories, People?

13 MR. WALSH: 4, 10, 9. Three, your Honor.

14 THE COURT: All right.

15 MR. WALSH: 4, 9 and 10.

16 THE COURT: 4, 9 and 10.

17 MR. WALSH: 4, 9 and 10, yes, your Honor.

18 THE COURT: All right. That's three

19 challenges, People.

20 All right. Peremptories, counsel, just of
21 the first 12?

22 MR. BRETTSCHEIDER: 4, 8 -- 5, 8 and 12.

23 THE COURT: All right. That gives us three
24 jurors, correct?

25 MR. WALSH: Right.

1 Peo. vs. Jackson

2 THE COURT: 1, 2 and 7 remain.

3 MR. WALSH: Yes.

4 MR. BRETTSCHEIDER: Yes.

5 THE COURT: All right. Now, the last two,
6 challenges, cause, People?

7 MR. WALSH: I thought both of them indicated
8 that they could not be fair, Your Honor. I would
9 challenge both for various reasons.

10 MR. BRETTSCHEIDER: I think, I think they
11 both said they could be fair.

12 THE COURT: Let's do one at a time.

13 Miss Edelman indicated that she felt she,
14 because of the intimidation of the charges, she
15 felt fear and that would influence her even
16 though she hedged on certain other things.

17 She mentioned that word "fear." I'm going
18 to grant that.

19 MR. BRETTSCHEIDER: I agree. I forgot
20 about that. I agree.

21 THE COURT: All right. That is for cause.

22 Now, Miss Branzinski (Ph.) is not
23 comfortable with the nature of the charge. Not
24 sure if she could give a fair trial. Worried
25 about making a decision on someone's life.

1 Peo. vs. Jackson

2 But she also said she had no bias. So,
3 unless there's consent on that one that I will
4 not deny -- I will deny that one.

5 (Conference.)

6 MR. BRETTSCHEIDER: Consent.

7 MR. WALSH: Consent.

8 THE COURT: For cause, all right. That
9 gives us three jurors.

10 We'll swear them and then we'll adjourn for
11 the day.

12 (Open court.)

13 THE CLERK: Will the following please remain
14 seated.

15 (Indicated jurors excused.)

16 THE CLERK: Are the remaining jurors
17 satisfactory to the People?

18 MR. WALSH: Yes, your Honor.

19 THE CLERK: Satisfactory to the defendant?

20 MR. BRETTSCHEIDER: Yes, your Honor.

21 (Jurors sworn.)

22 THE CLERK: Please be seated.

23 THE COURT: All right. Now, to conduct your
24 deliberations in an orderly fashion you must have
25 a foreperson.

1 Peo. vs. Jackson

2 Of course, his or her vote is entitled to
3 greater weight than that of any other juror.
4 Under our law, the juror whose name was first
5 drawn and called must be designated by the Court
6 as the foreperson.

7 So, Mr. Diamond, you will be the Foreman of
8 the jury and will report the verdict in open
9 court.

10 And, Ma'am, after you've had the opportunity
11 to speak to your husband, if there's going to be
12 a problem that you need us to intervene with the
13 fire department to assist you at the time of
14 deliberations, please let us know as early as
15 possible so that we can start making those calls
16 up the line of command if we have to.

17 Ladies and gentlemen, that basically
18 concludes the proceedings for today. I'm going
19 to give you the admonitions and the instructions
20 in a moment.

21 Tomorrow is a holiday. It's Election Day.
22 Please, everybody remember to vote. We meet
23 again on Wednesday. Wednesday at 11 in the
24 morning.

25 Those jurors who have not yet been called in

1 Peo. vs. Jackson

2 the box, you'll be called into the box on
3 Wednesday. Please bring your questionnaires back
4 with you at that time.

5 As to all of you, do not discuss the case
6 among yourselves or with others.

7 Do not read or listen to any accounts or
8 discussions of the case if it is reported by
9 newspapers or any other news media.

10 Do not visit or view the premises or any
11 place where the offenses charged were allegedly
12 committed or any other premises or place involved
13 in the case.

14 Promptly report to the Court any incident
15 involving any attempt by any person to influence
16 any member of the jury or to discuss the case.

17 Do not form any opinions. Keep an open mind
18 until the case is completed.

19 Also, in the morning, the parking situation
20 gets very bad after 9:30. So leave yourself
21 plenty of time to find a parking space.

22 If you want to come early, there are various
23 restaurants across the street. There's a coffee
24 shop downstairs. I do not recommend nor do I say
25 don't go there. I haven't eaten there in years.

1 Peo. vs. Jackson

2 I don't have any idea what they're serving.

3 However, I ask you not to visit any other
4 courtrooms while you are waiting to come in here,
5 and I will not permit you to enter this courtroom
6 until this case begins.

7 Also, all of us who are participants in this
8 trial, we're friendly, but if any of you should
9 see us in the halls we cannot even discuss the
10 weather with you. And that's to protect the
11 integrity of the case.

12 Have a good day off tomorrow, and we'll see
13 you Wednesday at 11.

14 (Jury out.)

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STATE OF NEW YORK : NASSAU COUNTY

COUNTY COURT PART I

- - - - -x

THE PEOPLE OF THE STATE OF NEW YORK, :

-against- :Ind. # 91607

JOSEPH JACKSON, :

Defendant. :

- - - - -x

November 6, 1996
262 Old Country Road
Mineola, New York

B E F O R E :

HON. ABBEY L. BOKLAN,
County Court Judge,
and a jury

A P P E A R A N C E S:

HON. DENIS DILLON
Nassau County District Attorney
BY: MICHAEL WALSH, ESQ., of Counsel
Assistant District Attorney
for the People

SCOTT BRETTSCHEIDER, ESQ.
for the Defendant

-Jury Selection and Trial Minutes-

JERRI KREVOFF, CSR, RPR
Official Court Reporter

jerri krevoft, csr, rpr

1
2 THE CLERK: Case on trial, People vs.
3 Joseph Jackson.

4 THE COURT: Counsel, please approach.
5 (Whereupon the following side bar
6 conference took place outside the hearing of
7 the jury:)

8 THE COURT: Counsel, I have just been
9 handed a note. I might have to send the
10 other jurors out, so that your client can
11 hear this, as well. Judge Boklan, sworn
12 juror, last name, Diamond, that's our
13 foreman, juror has just been accepted at
14 Fordham University. Must move into
15 Manhattan immediately. Also has plane
16 tickets for the day before Thanksgiving. He
17 would like to speak with you.

18 Counsel, do you want to go back and see
19 whether your client wants to waive his right
20 to be present at this. Otherwise, I have to
21 send the prospective jurors outside the
22 door, and we'll do it in open Court.

23 MR. BRETTSCHEIDER: Why don't we do it
24 in the open courtroom.

25 THE COURT: Fine. I'll have the two

1
2 other sworn jurors brought back into the
3 jury room.

4 (Whereupon the following took place
5 back within the hearing of the courtroom:)

6 THE COURT: Ladies and gentlemen, I
7 have a note from one of the sworn jurors
8 that I have to handle in the courtroom,
9 outside the presence of the prospective
10 jurors, as well as the other sworn jurors.

11 I'm going to ask -- I'm sorry --
12 everybody seated in the back, to just step
13 outside the door for a couple of minutes.
14 My other sworn jurors, please just follow my
15 court officer.

16 (Whereupon the prospective jurors and
17 the sworn jurors left the courtroom, and the
18 following occurred in their absence:)

19 THE COURT: All right. Mr. Diamond, I
20 received your note. I'm going to read it
21 into the record.

22 "Judge Boklan, the sworn juror, last
23 name, diamond, juror has just been accepted
24 at Fordham University. Must move into
25 Manhattan immediately. Also has plane

1
2 tickets for day before Thanksgiving, and
3 would like to speak with you." It's signed
4 by Sergeant Scalisi.

5 Mr. Diamond, you can --

6 MR. DIAMOND: I can talk?

7 THE COURT: Yes.

8 MR. DIAMOND: The other day, Monday
9 night, I applied to the MBA program at
10 Fordham. I was accepted. So that I have
11 orientation. I have plans to move into the
12 City. I also found out my parents made a
13 reservation for Thanksgiving, which I wasn't
14 aware of.

15 Unfortunately, I don't think I'll be
16 able to serve. I have to register,
17 orientation and look for a place in the
18 City. I have a letter.

19 THE COURT: I'll take your word for it.
20 When does registration and orientation
21 start?

22 MR. DIAMOND: The second week in
23 December. Registration; registration is the
24 second week in December.

25 THE COURT: What day?

1
2 MR. DIAMOND: I haven't accepted yet.
3 But I am. Again, I got it Monday. I have
4 to accept it. After I accept, then I get
5 the material, registration materials, find
6 out when I have to go.

7 THE COURT: If you just be seated for a
8 moment. Counsel, when you're ready to make
9 a -- have a discussion with me at the Bench,
10 after you speak to your client, please
11 approach.

12 (The following sidebar conference took
13 place outside the hearing of the open
14 courtroom, in the presence of the Court and
15 both counsel:)

16 THE COURT: What is your pleasure?

17 MR. BRETTSCHEIDER: What do you want
18 to do?

19 THE COURT: Do you want to go off the
20 record?

21 MR. BRETTSCHEIDER: Yes.

22 (Whereupon there was a discussion off
23 the record)

24 THE COURT: Mr. Brettschneider, you're
25 consenting to his removal?

1
2 MR. BRETTSCHEIDER: Yes. And I have
3 discussed this with my client, and he
4 agreed.

5 THE COURT: Mr. Walsh?

6 MR. WALSH: I consent, as well.

7 (Whereupon the following took place
8 back within the hearing of the courtroom:)

9 THE COURT: Mr. Diamond, all
10 participants have consented to excuse you,
11 and with wishes for good luck in your
12 schooling.

13 (Whereupon Juror #1 was excused)

14 THE COURT: Bring back all the jurors
15 and prospective jurors, please.

16 (Whereupon the sworn jurors, and the
17 panel of prospective jurors were brought
18 into the courtroom, and the following took
19 place:)

20 THE COURT: Thank you, ladies and
21 gentlemen. What had happened is,
22 Mr. Diamond, who, in fact, was our jury
23 foreman, has just been accepted at Fordham
24 University. He found out yesterday. He's
25 going to move into the City, immediately.

1
2 He will start his orientation and
3 registration.

4 So all participants have consented to
5 let him start his university career. So
6 that Mrs. Longarden; you're now our
7 forewoman. You will be reporting the
8 verdict of the jury.

9 We are now ready to continue with our
10 jury selection. Let's please fill the box.

11 (Whereupon the jury box was filled with
12 fourteen people)

13 THE COURT: Good morning, again, ladies
14 and gentlemen. Do any of you know anything
15 about the case; other than what we have told
16 you? Any of the prospective witnesses, any
17 of the participants at all; anyone?

18 Now, comes really the most important
19 question of all. I should really always do
20 it first: Do any of you know of any reason
21 you can't fairly and impartially sit in this
22 case? Please approach, sir.

23 (Whereupon the following side bar
24 conference took place outside the hearing of
25 the open courtroom:)

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THE COURT: Yes, Mr. Basile?

MR. BASILE: I have family who was convicted of crimes and stuff. I don't think I could be giving a fair decision.

THE COURT: You're excused. Thank you.

(The following took place back within the hearing of the open courtroom:)

THE COURT: Fill the seat, please.

(Whereupon the vacant seat was filled)

THE COURT: Mrs. Shanley, can you fairly and impartially sit on the case?

PROSPECTIVE JUROR: Yes.

THE COURT: Do know anything about the case, that we haven't told you? Any of the prospective witnesses, any of the participants?

PROSPECTIVE JUROR: No.

THE COURT: Ms. Baldwin, please tell me about victim of a crime?

PROSPECTIVE JUROR: My girlfriend was raped.

THE COURT: How long ago?

PROSPECTIVE JUROR: Four years.

THE COURT: Anyone apprehended?

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PROSPECTIVE JUROR: Yes.

THE COURT: Was there a proceeding in the case?

PROSPECTIVE JUROR: Yes.

THE COURT: Did you attend any of the proceedings?

PROSPECTIVE JUROR: No.

THE COURT: Did you have any discussions with your friend about the proceedings?

PROSPECTIVE JUROR: Yes.

THE COURT: Anything about that horrible incident, or the trial, or the discussions that would affect your ability to be fair in this case?

PROSPECTIVE JUROR: No.

THE COURT: Tell me about law enforcement.

PROSPECTIVE JUROR: My boyfriend is a retired police officer, Marine Bureau, Nassau County.

THE COURT: Can you judge a police officer the same as any other human being? You don't decide in advance if you believe

1
2 or disbelieve them --

3 PROSPECTIVE JUROR: Yes. I have to
4 mention I was in the Police Academy for a
5 brief time.

6 THE COURT: How long ago?

7 PROSPECTIVE JUROR: Thirteen years.

8 THE COURT: You never became a police
9 officer?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Anything that would affect
12 your ability to be fair in that experience?
13 I'm sure you learned your fellow students
14 were human beings just like the rest of us.

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Mr. Minerva, your wife is a
17 bookkeeper for what type of a firm?

18 PROSPECTIVE JUROR: Village of New Hyde
19 Park.

20 THE COURT: You served on a grand jury?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Was that state or federal?

23 PROSPECTIVE JUROR: It was state. In
24 the grand jury.

25 THE COURT: That's a different

1
2 proceeding. the defense attorney doesn't
3 cross-examine. No Judge sits to make a
4 ruling. Can you assure me that duty will,
5 in no way, interfere with your ability to be
6 fair in this case?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Tell me about victim of a
9 crime.

10 PROSPECTIVE JUROR: About twenty years
11 ago, my house was burglarized.

12 THE COURT: Anyone apprehended?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Would that affect you in
15 this case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Tell me about law
18 enforcement.

19 PROSPECTIVE JUROR: I have a cousin who
20 is a retired New York City police officer,
21 on my wife's side. We have one uncle whose
22 son is a retired New York City police
23 officer and a son who is presently a Suffolk
24 County police officer.

25 THE COURT: Anything in those

relationships that would affect you in this case?

PROSPECTIVE JUROR: No.

THE COURT: Can you judge a police officer as a human being, the same as anyone else?

PROSPECTIVE JUROR: Yes.

THE COURT: Mrs. Snider, have you ever been employed outside of the home?

PROSPECTIVE JUROR: No.

THE COURT: Your husband's occupation, prior to his retirement?

PROSPECTIVE JUROR: General contractor.

THE COURT: I see you have a child who is a police officer.

PROSPECTIVE JUROR: Yes.

THE COURT: What jurisdiction?

PROSPECTIVE JUROR: Nassau.

THE COURT: Not the Homicide Bureau?

PROSPECTIVE JUROR: No.

THE COURT: Male or female?

PROSPECTIVE JUROR: Male.

THE COURT: Has he ever discussed cases with you.

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PROSPECTIVE JUROR: No.

THE COURT: Anything in the relationship that would prevent you from being fair?

PROSPECTIVE JUROR: No.

THE COURT: Can you judge a police officer the same as anyone else who takes the stand?

PROSPECTIVE JUROR: I can.

THE COURT: I see you have had jury experience, both civil and criminal. I don't want to know the verdict in the criminal. Is that the one there was a verdict in?

PROSPECTIVE JUROR: Yes.

THE COURT: What type of charge was that?

PROSPECTIVE JUROR: Setting off fire alarms.

THE COURT: Possession of firearms?

PROSPECTIVE JUROR: No. Setting off fire alarms.

THE COURT: Anything in that experience that would prevent you from being fair in

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2 this case?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Anyone, other than your
5 son, involved in law enforcement?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Mr. McKenna, you say
8 production editor. For what type of an
9 organization?

10 PROSPECTIVE JUROR: Publishing firm.
11 We handle physics work.

12 THE COURT: Tell me about law
13 enforcement.

14 PROSPECTIVE JUROR: I have two cousins
15 who are police officers; one in Albany and
16 one, I think, retired from Nassau County.

17 THE COURT: Will you Judge the police
18 officers the same as anyone else who takes
19 the stand?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Executive recruiter for
22 what type of firm?

23 PROSPECTIVE JUROR: For health care and
24 marketing areas.

25 THE COURT: I see that your wife is

1
2 employed by a legal firm. Do they practice
3 in the field of criminal law?

4 PROSPECTIVE JUROR: No.

5 THE COURT: You, sir, have served on a
6 grand jury?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: State or federal?

9 PROSPECTIVE JUROR: I don't recall. I
10 think it was state.

11 THE COURT: Was it in this building?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: That's state. It would
14 have been probably the assistant district
15 attorney from the Nassau County District
16 Attorney's Office presenting cases to you.
17 Of course, I spoke to our other prospective
18 jurors. It's a very different proceeding.

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: Can you assure me there is
21 nothing in that experience that would affect
22 your ability to be fair in this case?

23 PROSPECTIVE JUROR: I can.

24 THE COURT: Tell me -- you had a car
25 stolen. Anyone apprehended.

PROSPECTIVE JUROR: Not that I know of.

THE COURT: Would that, in any way, affect you?

PROSPECTIVE JUROR: No.

THE COURT: You had a brother who was a former police officer?

PROSPECTIVE JUROR: Yeah. That was over twenty years ago, in New York City. He served for about five years.

THE COURT: Would you be affected by that relationship?

PROSPECTIVE JUROR: No.

THE COURT: Can you judge a police officer the same as any other human being?

PROSPECTIVE JUROR: Yes, I can.

THE COURT: You say you have a strong anti-gun feeling. Well, so do I. That doesn't affect my impartiality. We are not here to determine whether we are for or against guns. We are here to determine only if the district attorney proves their case beyond a reasonable doubt.

Can you assure me that your feelings about handguns will not interfere with your

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2 ability to be fair?

3 PROSPECTIVE JUROR: I can't give you a
4 guarantee. It really depends on the
5 situation. I don't believe that citizens
6 should have handguns. How the handgun was
7 used, or how it was obtained -- I really --

8 THE COURT: I don't know if we are
9 going to hear evidence about how a handgun
10 was obtained. Just that a handgun was used
11 to kill someone. We're not here to
12 determine whether that's good or bad. The
13 legislature has determined it's bad to kill
14 someone with a gun.

15 You are going to be here to determine
16 if the district attorney can prove his case
17 beyond a reasonable doubt; just on the facts
18 of this case. You have to shut out your
19 feelings about guns, about everything else
20 that doesn't have to do with the case in
21 this courtroom. Can you do that?

22 PROSPECTIVE JUROR: I think so.

23 THE COURT: I'm sure the attorneys will
24 have some further questions for you. You'll
25 have the opportunity to think about it.

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2 Mrs. Collins, you are a registered
3 nurse. I have to ensure if there is medical
4 testimony, you will not become the resident
5 expert on the jury in medicine.

6 PROSPECTIVE JUROR: No.

7 THE COURT: I see that your husband is
8 a Lieutenant in the Police Department, New
9 York City. Can you assure the participants
10 to this proceeding, and me, as well, that
11 you will not be affected by that
12 relationship in this case?

13 PROSPECTIVE JUROR: Right.

14 THE COURT: You're not going to worry
15 about, no matter what your verdict is,
16 whether it displeases or pleases anyone,
17 including your husband?

18 PROSPECTIVE JUROR: Right.

19 THE COURT: You will not decide in
20 advance to believe anyone, including a
21 police officer, a judge, a fireman. Doesn't
22 matter who the person is, what the
23 employment title is. You listen and use
24 your common sense. Can you do that?

25 PROSPECTIVE JUROR: Yes.

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2 THE COURT: Any law enforcement people,
3 other than your husband?

4 PROSPECTIVE JUROR: His brother is also
5 a New York City policeman.

6 THE COURT: You would answer the same
7 if I asked you those same questions
8 regarding his brother?

9 PROSPECTIVE JUROR: Yes. I have to say
10 one thing. He mentioned a car stolen. I
11 forgot about that. My car was stolen about
12 six years ago.

13 THE COURT: Would that affect your
14 ability to be fair?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Mrs. Kudak, your husband is
17 in law school. What year?

18 PROSPECTIVE JUROR: Finishing his third
19 year.

20 THE COURT: Has he ever discussed with
21 you, criminal law, constitutional law or
22 procedures?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Can you assure me you would
25 put aside anything you learned in those

1
2 discussions and take the law as I give it to
3 you?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Tell me about victim or
6 witness to a crime?

7 PROSPECTIVE JUROR: Witness to a crime
8 in the subway. I saw someone's jewelry
9 being stolen. My brother-in-law was shot
10 at.

11 THE COURT: Shot at; not hit?

12 PROSPECTIVE JUROR: Not hit but shot
13 at.

14 THE COURT: Anything in either of those
15 experiences that would prevent you from
16 being fair in this case.

17 PROSPECTIVE JUROR: No.

18 THE COURT: When you were a witness to
19 the taking of a chain, was anyone
20 apprehended in that case.

21 PROSPECTIVE JUROR: I don't know.

22 THE COURT: You had no opportunity to
23 testify in any proceeding.

24 PROSPECTIVE JUROR: No.

25 THE COURT: Tell me about law

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2 enforcement.

3 PROSPECTIVE JUROR: I have two good
4 friends. One is a cop -- was a cop. He's
5 now a fireman. The other one is a
6 correction officer in Mineola.

7 THE COURT: Anything in any of your
8 discussions, your relationships with these
9 individuals, that would affect your ability
10 to be fair?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Mr. Arsteri, you are a
13 police officer, yourself?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Where?

16 PROSPECTIVE JUROR: I'm a sergeant in
17 New York City, Brooklyn.

18 THE COURT: Have you ever been involved
19 in any homicide investigations.

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Do you understand that if
22 you are chosen for this jury, you can't put
23 yourself forward as an expert in any sort of
24 investigative techniques?

25 PROSPECTIVE JUROR: Yes.

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2 THE COURT: Can you judge a police
3 officer the same as any other human being
4 who takes the stand?

5 PROSPECTIVE JUROR: Yes, I could.

6 THE COURT: Tell me about victim and
7 witness to a crime.

8 PROSPECTIVE JUROR: A lot of
9 situations.

10 THE COURT: In your capacity as a
11 police officer?

12 PROSPECTIVE JUROR: Right.

13 THE COURT: Did you testify, yourself,
14 in any proceedings?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: You testified before the
17 grand jury?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: You know it's very
20 different from a trial. Did you testify at
21 a trial?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Can you assure me you're
24 not going to favor one side or another;
25 because you, yourself, may have had the

1
2 opportunity to work with the assistant
3 district attorney, on the direct examination
4 of you, or perhaps a defense attorney
5 cross-examine you; none of those things will
6 affect your ability to be fair.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Mrs. Henshe, what do you
9 teach?

10 PROSPECTIVE JUROR: Third grade.

11 THE COURT: I don't remember if you
12 ever approached the Bench about the
13 responsibilities of and staying overnight.
14 What's the problem about being sequestered?

15 PROSPECTIVE JUROR: We're in the
16 process of selling our house. We are buying
17 another house. I have an eleven year old
18 child who I can't leave in a strange house
19 in a strange neighborhood alone after
20 school.

21 THE COURT: When are you due to move?

22 PROSPECTIVE JUROR: Probably, by
23 December 15th.

24 THE COURT: There's no one who could
25 assist you in that?

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2 PROSPECTIVE JUROR: I have my
3 stepfather. I don't know if he would be
4 available.

5 THE COURT: We are hoping, of course,
6 to be finished in around that time. There's
7 never a guarantee. If you are chosen for
8 the jury, would you be able to manage for a
9 couple of days?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: You're willing to serve?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Mr. Ninn, you are a
14 financial controller for what type of firm
15 or organization?

16 PROSPECTIVE JUROR: Consumer goods.

17 THE COURT: Tell me about victim of a
18 crime.

19 PROSPECTIVE JUROR: My parents were
20 mugged.

21 THE COURT: How long ago?

22 PROSPECTIVE JUROR: About five years.

23 THE COURT: Anyone apprehended?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Was there a handgun used?

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PROSPECTIVE JUROR: No.

THE COURT: Anything in that experience that would affect your ability to be fair?

PROSPECTIVE JUROR: No.

THE COURT: Tell me about law enforcement?

PROSPECTIVE JUROR: My cousin is an FBI agent.

THE COURT: Anything in that relationship that would affect you?

PROSPECTIVE JUROR: No.

THE COURT: Can you judge a police officer the same as any other human being?

PROSPECTIVE JUROR: Yes.

THE COURT: Mrs. Burrows, prior to your being a homemaker, what did you teach.

PROSPECTIVE JUROR: Social studies, seventh and eight grade.

THE COURT: Your husband, prior to his retirement, what did he sell?

PROSPECTIVE JUROR: Plastic bags.

THE COURT: Tell me about victim of a crime.

PROSPECTIVE JUROR: Two. My husband

1
2 was mugged at gunpoint four years ago. And
3 a very close friend of ours was beaten to
4 death two years ago.

5 THE COURT: Let's start with your
6 husband being robbed by someone with a gun.
7 You heard there is an allegation of a gun in
8 this case. I want to make sure what
9 happened to your husband, and of course, in
10 the other case, won't carry over to this
11 case.

12 PROSPECTIVE JUROR: I'm not sure.

13 THE COURT: Then I can't take a
14 chances. You're excused.

15 Fill the seat.

16 (Whereupon the vacant seat was filled)

17 THE COURT: Ms. Abraham, I remember
18 that you had come up to the Bench. You were
19 very reluctant to stay here with us. All
20 sorts of problems. I kind of coerced you a
21 little.

22 Now that you're in the box, I want to
23 make sure you will not be a reluctant juror.
24 That you'll be able to stay, if chosen.

25 PROSPECTIVE JUROR: Yes.

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2 THE COURT: You can put aside all your
3 problems?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Do you know any of the
6 participants to the proceedings, or any of
7 the witnesses?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Do you know anything about
10 the case, other than what we have told you?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Can you be a fair and
13 impartial juror?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Your husband is a manager
16 of what type of a firm?

17 PROSPECTIVE JUROR: Supermarket.

18 THE COURT: You served on a grand jury?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Was it federal or state?

21 PROSPECTIVE JUROR: I think it's the
22 state.

23 THE COURT: Here, in this building?

24 PROSPECTIVE JUROR: No. In Queens.

25 THE COURT: Can you assure me that

1
2 those experiences will not carry over to
3 this case?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: You're willing to be
6 sequestered?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: I don't mean to ignore you,
9 but I have no questions for you,
10 Mrs. Shannon.

11 Mr. Gallagher, I see one of your
12 children is an attorney. Male or female?

13 PROSPECTIVE JUROR: Male.

14 THE COURT: Does he or did he, ever
15 practice in the field of criminal law?

16 PROSPECTIVE JUROR: No.

17 THE COURT: When he was in law school,
18 did he ever discuss with you criminal law,
19 or procedure?

20 PROSPECTIVE JUROR: No. I mentioned to
21 him -- I mentioned to him one time about his
22 studies. He said, going fine. But I don't
23 want to discuss it.

24 THE COURT: Mrs. Silk, what do you
25 teach?

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2 PROSPECTIVE JUROR: Fourth grade.

3 THE COURT: You indicate that a close
4 friend was in law enforcement. Would that
5 affect your ability to be fair?

6 PROSPECTIVE JUROR: I don't think so.

7 THE COURT: You'll judge a police
8 officer the same as anyone else?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: I think you had come up and
11 discussed with me the problems about staying
12 overnight; had you not?

13 PROSPECTIVE JUROR: I don't think I
14 discussed the problems of staying overnight
15 with you, no. I don't believe so.

16 THE COURT: Do you have problems?

17 PROSPECTIVE JUROR: I do. I don't have
18 any child care overnight.

19 THE COURT: What about your husband?

20 PROSPECTIVE JUROR: As you see, he's a
21 principal. A lot of the times, he has
22 meetings at night. Almost four out of five
23 nights a week, he's not home until late. He
24 just stays sometimes.

25 THE COURT: You can't -- you have no

one to stay with your young children?

A I have nobody around.

THE COURT: It could be that you're sequestered. I have to excuse you. Thank you.

Fill the empty seat.

We only have three remaining jurors in the audience. We are going to call you into those three seats we have just arranged. Wait until yours names are called.

(Whereupon the remaining seats were filled)

THE COURT: To the four of you just seated, can you all be fair and impartial? No; and one maybe.

Please approach.

(Whereupon the following side bar conference took place outside the hearing of the jury panel:)

THE COURT: Mr. Hurt, please approach.

PROSPECTIVE JUROR: My girlfriend was mugged, or my fiancée. Mugged at knifepoint. I don't think I can be impartial.

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2 THE COURT: You're excused. Just wait
3 on the side for a minute.

4 All right. Now, Ms. Versaci. Yes.

5 PROSPECTIVE JUROR: In college, my car
6 got stolen. I went to St. John's
7 University. It was a mixed crowd.

8 THE COURT: You mean, racially mixed?

9 PROSPECTIVE JUROR: Yes. My wallet was
10 stolen from work. My father has his
11 business robbed; my house was robbed;
12 several things I am not very comfortable
13 with. I don't think I could be impartial.

14 THE COURT: Thank you.

15 All right. Now, Mr. Bescar.

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Your hand went up, but kind
18 of hesitantly.

19 PROSPECTIVE JUROR: I was thinking
20 about whether I could be impartial in this
21 jury. I, myself, have been a victim of a
22 crime. My wife has been a victim of a
23 crime. In both cases, the people involved
24 were black young males. Just, I probably
25 have a point of view, that could get me

1
2 away --

3 THE COURT: You're excused.

4 Thank you for your candor.

5 (Whereupon the following took place
6 back within the hearing of the open
7 courtroom)

8 THE COURT: Mr. Alcade, do you know
9 anything about the case; any of the
10 prospective witnesses, or the participants?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Now, we're all together
13 again. Do any of you have any friends or
14 relatives or, in fact, do you have any cases
15 pending before the District Attorney's
16 Office or the Police Department?

17 As jurors, your verdict must be
18 unanimous. When it comes time to
19 deliberate, it's your duty to express your
20 views; listen to the views of your fellow
21 jurors and be an active participant in the
22 deliberations.

23 Can everyone promise all of us that you
24 can do that? Anyone who can't?

25 Now, we'll move to some of the

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2 questions on the law. Every person accused
3 of a crime is presumed innocent; that is, he
4 stands innocent in the eyes of the law. The
5 People must rebut this presumption, if they
6 can, by the presentation of evidence which
7 convinces you beyond a reasonable doubt of
8 the defendant's guilt.

9 In a criminal case, the burden of proof
10 is on the People, remains on the People
11 throughout the trial. The defendant is not
12 required to prove or disprove anything.

13 As I mentioned to the other jurors, if
14 defense counsel chose to sit there silently
15 throughout the trial, he could do that.

16 Can you all accept the presumption of
17 innocence, the burden of proof?

18 I will explain at the close of the
19 case, the meaning of reasonable doubt. But
20 you will be required to acquit if, at the
21 end of the case, because of the evidence or
22 the lack of evidence presented to you, you
23 have a reasonable doubt as to guilt.

24 Can you all accept the standard of
25 proof in all criminal cases? Everyone?

Are there any who would hold the People to a higher standard of guilt than that required by law?

Sympathy, thoughts of punishment, those thoughts do not belong in the jury room. Can you all promise me that you will put aside any sympathies, sympathy for the defendant, or the victim's family, thoughts of punishment; can you put those things aside?

The defendant is not obligated to take the witness stand or call any witnesses, or explain his actions, in any way. You must not draw any inference unfavorable to the defendant from this fact.

Are there any of you who will or might allow the fact that the defendant may not testify, to influence you in your deliberations? If so, just raise your hand.

Are there any of you who have any feelings about the police that would give you -- excuse me -- that would cause you to give a police officer any greater credibility or any less credibility before

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2 even listening?

3 Thank you. Mr. Walsh, you may proceed.

4 PROSPECTIVE JUROR: Judge, I also had
5 my car stolen.

6 THE COURT: How long ago?

7 PROSPECTIVE JUROR: About four years
8 ago.

9 THE COURT: Would that affect you in
10 this case?

11 PROSPECTIVE JUROR: No.

12 MR. WALSH: I intend to be a lot
13 briefer than yesterday. Everybody heard the
14 comments that I made, that
15 Mr. Brettschneider made yesterday. I'm
16 going to go through as quickly as I possibly
17 can.

18 Yesterday, one of the first questions I
19 asked was whether or not the nature of the
20 charges in this case that you heard the
21 indictment, murder in the second degree,
22 intimidating a victim or a witness,
23 hindering prosecution, I asked you whether
24 those charges, or the nature of the case,
25 caused anyone to feel they would be unable

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2 to sit on this jury, or to be fair and
3 impartial. Is there anyone who feels that
4 way?

5 Mr. McGuire, I'm going to come back to
6 you. I know one of the last things the
7 Judge said to you was, you'll have a little
8 time to think. Maybe you can come up with
9 something definitive. Maybe you can't.
10 Your answer may very well be, I don't know
11 if I can be fair and impartial. If that's
12 your answer, that's the way you feel.
13 You've had a little time to think.

14 PROSPECTIVE JUROR: It hasn't help me
15 verbalize it better. It's an emotional
16 thing. I feel that --

17 THE COURT: Just speak up a little
18 louder.

19 PROSPECTIVE JUROR: I have a cold. I
20 just feel that civilians shouldn't have
21 handguns or anything that can kill another
22 human being, or anything for that matter. I
23 don't have any experience with it. It's
24 just something that I support in
25 associations and groups. I'm as active as I

1
2 can be.

3 MR. WALSH: You may have heard me say,
4 on Monday, I don't think there's anybody
5 here who is in favor of people using
6 handguns to hurt other people. I think you
7 had commented, well, it depends on how the
8 handguns were used or obtained. You know
9 what the indictment charges, and what Judge
10 Boklan said to you. The defendant is
11 charged with using a handgun and shooting
12 and killing someone.

13 Now, bear in mind that I have to prove
14 this to you. As I said, I don't think
15 there's anybody here, in this courtroom, who
16 is in favor of shooting or killing people
17 with a handgun. The question though, is,
18 whether or not the defendant, in fact, shot
19 and killed someone with a handgun and
20 whether I could prove that to you beyond a
21 reasonable doubt.

22 PROSPECTIVE JUROR: Right.

23 MR. WALSH: If he didn't do it, if I
24 can't prove to you that the defendant shot
25 and killed somebody with a handgun, do you

1
2 think that your feelings are such that you
3 might be likely to hold me to possibly a
4 lesser burden than I have, because of your
5 feelings about handguns? In other words, is
6 there a danger --

7 PROSPECTIVE JUROR: These are two
8 separate issues. My feeling is that if
9 you -- I don't want to get into your case.
10 If you can't tie him to the gun, then that's
11 going to be probably leaning toward a not
12 guilty verdict.

13 If you can tie him to the gun, and you
14 prove it to me, with evidence and so on, I'm
15 going to vote that way.

16 MR. WALSH: That's exactly what I'm
17 getting as at. The bottom line is this: I
18 would like to have twelve jurors who are of
19 the mindset that if I prove my case to you
20 beyond a reasonable doubt, you can walk back
21 in this courtroom, look at the defendant and
22 find him guilty of second degree murder.

23 If I don't prove my case beyond a
24 reasonable doubt, then you walk into the
25 courtroom, stand up and tell the defendant,

1
2 he's not guilty.

3 Whatever your verdict is, what I would
4 like to be sure of, if I could possibly be,
5 and I would like you to be sure of, that
6 your verdict will be based on the evidence
7 in the case, and only the evidence, without
8 regard to any outside feelings or influences
9 you may have.

10 PROSPECTIVE JUROR: I can give you that
11 assurance.

12 MR. WALSH: Thank you. Sir, you're
13 currently a sergeant in the New York City
14 Police Department.

15 PROSPECTIVE JUROR: Yeah.

16 MR. WALSH: Where do you work?

17 PROSPECTIVE JUROR: Brooklyn.

18 MR. WALSH: You're going to -- you
19 heard the witness list read?

20 PROSPECTIVE JUROR: Yes.

21 MR. WALSH: Probably over half the
22 names were police officers. You are
23 certainly, if chosen as a jury, going to
24 listen to police officers testify. Do you
25 believe, as you sit here now, that a police

1
2 officer is any more likely to tell the truth
3 on the witness stand than anyone else?

4 PROSPECTIVE JUROR: No.

5 MR. WALSH: After this case is over --
6 say you're chosen as a juror, and the case
7 is over, you're going to go back to work, in
8 the New York City Police Department. And
9 you'll possibly discuss what happened with
10 some of the people you work with. In your
11 position, Sergeant in the Police Department,
12 you may have to go back, and if you find the
13 defendant not guilty, tell your fellow
14 officers that you came in here on a murder
15 trial and found the defendant not guilty.
16 If that happens, will you be able to do
17 that?

18 PROSPECTIVE JUROR: Yes.

19 MR. WALSH: You feel that you could
20 give both sides a fair shake; People and the
21 defendant?

22 PROSPECTIVE JUROR: Yes.

23 MR. WALSH: I'm sure Mr. Brettschneider
24 will be interested in this. Does he have
25 anything to worry about, that he has a juror

1
2 who won't give his client a fair shake?

3 PROSPECTIVE JUROR: No.

4 MR. WALSH: A number of you said you
5 had friends or relatives who were in law
6 enforcement. I won't talk to everybody.

7 Ms. Collins, your husband is a
8 Lieutenant in the New York City Police
9 Department. I'll ask you the same question
10 that Judge Boklan alluded to. This case is
11 over, you go home and speak to your husband.
12 Are you going to be reluctant to come to a
13 verdict in this case, that's going to cause
14 you some difficulty in going back and
15 speaking to your husband?

16 PROSPECTIVE JUROR: I don't think so.
17 I think he thinks of me as a fair person.

18 MR. WALSH: I'll ask you the same
19 question I did Mr. McGuire. Whatever your
20 verdict is, do you feel confident that your
21 verdict will be based on the evidence, and
22 nothing else; but whether or not I prove the
23 case?

24 PROSPECTIVE JUROR: Yes.

25 Q Mr. McKenna, how about yourself? Two

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cousins in law enforcement.

PROSPECTIVE JUROR: Yes.

MR. WALSH: Do you agree with
Ms. Collins and Mr. McGuire: Whatever your
verdict is, it will be based on the
evidence, and nothing but the evidence?

PROSPECTIVE JUROR: Yes.

MR. WALSH: Ms. Schneider, you said I
think, you sat on a criminal jury. Was that
in Nassau County?

PROSPECTIVE JUROR: Yes.

MR. WALSH: Police officers testified
in that case?

PROSPECTIVE JUROR: Yes -- no. I don't
remember.

MR. WALSH: It's good that you don't
remember. My next question was, were you
left with any particular feelings one way or
the other about police officers.

PROSPECTIVE JUROR: No.

MR. WALSH: Do you feel you could give
both sides a fair shake in this case?

PROSPECTIVE JUROR: Yes.

MR. WALSH: Mr. Manerva, I think you

1
2 said you sat on a grand jury?

3 PROSPECTIVE JUROR: Yes.

4 MR. WALSH: Was that a state grand
5 jury?

6 PROSPECTIVE JUROR: It was in
7 Riverhead. I believe it was state.

8 MR. WALSH: You heard the district
9 attorney present evidence on various cases?

10 PROSPECTIVE JUROR: Yes.

11 MR. WALSH: Did you hear police
12 officers testify?

13 PROSPECTIVE JUROR: Yes. They were
14 regular police officers, undercover drug
15 cases.

16 MR. WALSH: Did that experience leave
17 you with any feelings about police officers?

18 PROSPECTIVE JUROR: No.

19 MR. WALSH: Ms. Baldwin, you were in
20 the police academy. Could you give either
21 side a fair trial?

22 PROSPECTIVE JUROR: Yes.

23 MR. WALSH: On Monday, I asked a few
24 jurors a series of questions about the
25 victim in this case. Ms. Shanley, Judge

1
2 Boklan didn't ask you any questions. I'll
3 pick on you. Remember I asked, the other
4 day, does it matter to you in this case,
5 whether the victim was black or white. How
6 do you feel about that? Does it matter to
7 you whether he's young or old, male or
8 female.

9 PROSPECTIVE JUROR: No.

10 MR. WALSH: It doesn't affect whether
11 or not I can prove my case to you beyond a
12 reasonable doubt. Who the victim is, who he
13 might have been during the course of his
14 life, doesn't change what the defendant
15 either did or didn't do. Agreed?

16 PROSPECTIVE JUROR: Agreed.

17 MR. WALSH: If I were to tell you, or
18 if you were to find out during the course of
19 the case, that the victim sold drugs during
20 the course of his life, does that change
21 your opinion?

22 PROSPECTIVE JUROR: No.

23 MR. WALSH: Same reason: It doesn't
24 affect whether or not the defendant
25 committed this crime or not. The reason I

1
2 ask these questions, is because I am
3 concerned that there will be somebody on the
4 jury that will tend to take this case less
5 seriously because of who the victim was; or
6 who anybody else was, in this case.

7 Let me ask a general question of
8 everyone: If anybody were to find out that
9 the victim in this case sold drugs during
10 the course of his life, or there was
11 something about the victim you didn't like,
12 does anybody here feel they would take the
13 case less seriously than they otherwise
14 would?

15 Again, I get back to the same thing I
16 said before. It's so important. Whatever
17 your verdict is in this case, whether it's
18 guilty or not guilty, do I have everybody's
19 assurances that your verdict will be based
20 on what the evidence is, and not any outside
21 influence; such as the ones we were talking
22 about; whether it's sympathy or anger, or
23 who the victim is or isn't. Or possibly,
24 Mr. McGuire, like you said, feelings that
25 you have about issues of guns and whether

1
2 people should own them. The question is
3 whether or not the charges are proven beyond
4 a reasonable doubt.

5 Remember Judge Boklan said, you are a
6 fact-finding body. You're here to determine
7 what happened. And you do that by listening
8 to, and seeing the evidence in the case.
9 Everybody's verdict will be based upon the
10 evidence and nothing else?

11 Thank you.

12 THE COURT: Thank you.

13 Mr. Brettschneider.

14 MR. BRETTSCHEIDER: Good morning,
15 everybody. One of the things I guess that
16 we talked about on Monday, was whether you
17 had to hear two sides of a story in a
18 particular case.

19 Of course, the Judge has already
20 instructed you that the law is that the
21 defendant has no burden of proof and doesn't
22 have to present any witnesses. Does anybody
23 feel opposite to what the law is.

24 Basically, the question I'm asking is, can
25 you follow the law; or is there something

1
2 inside of you that says I need to hear
3 another side of the story.

4 What about you, Mr. Alkay? Can you
5 just hear the prosecution's case; make a
6 decision, not hear from the defendant, not
7 hear any witnesses on the defendant's
8 behalf, and still be able to find the
9 defendant not guilty?

10 PROSPECTIVE JUROR: Yes.

11 MR. BRETTSCHEIDER: Why do you feel
12 that way?

13 PROSPECTIVE JUROR: I have to just go
14 according to the proof that he shows me.

15 MR. BRETTSCHEIDER: Mr. Gallagher, the
16 same question.

17 PROSPECTIVE JUROR: Same answer.

18 MR. BRETTSCHEIDER: Certainly, you
19 know, in these situations, you're going to
20 see witnesses. Witnesses are going to have
21 different motivation as to whether they're
22 telling the truth, or not telling the truth.
23 Mr. Gallagher, in your experience, have you
24 known someone to lie to you, and not
25 understand the motive behind that person not

1
2 telling the truth?

3 PROSPECTIVE JUROR: Probably, I have.
4 Nothing that I can remember. I'm sure I
5 have.

6 MR. BRETTSCHEIDER: Is it possible
7 that somebody can swear to tell the truth,
8 get up on the witness stand and not tell the
9 truth?

10 PROSPECTIVE JUROR: Yes, sir.

11 MR. BRETTSCHEIDER: Have there been
12 situations in your life, where you dealt
13 with someone, whether in business or your
14 own person life, in which you started
15 talking with the person. They tell you a
16 story, one day. Then you see them maybe a
17 few weeks later. They tell you something
18 completely different than what they told
19 you. What do you feel about that person's
20 credibility, as to whether they told you the
21 truth the first time or the second time?

22 PROSPECTIVE JUROR: I probably would
23 have doubt --

24 THE COURT: I'm sorry. We can't hear
25 you.

1
2 PROSPECTIVE JUROR: I probably would
3 have doubts about their story, if I ever had
4 to speak to them about something again.

5 MR. BRETTSCHEIDER: Mr. Shandley,
6 basically, the same question: If a witness
7 gets on the witness stand and testifies to
8 one thing, or they told somebody something
9 on one day, and then they're brought back a
10 couple of days or a week later, and asked to
11 tell the story again, and they tell a
12 different story, what would you feel about
13 that witness's credibility?

14 PROSPECTIVE JUROR: I could not believe
15 him, if he keeps changing the story.

16 MR. BRETTSCHEIDER: Do you think --
17 you know, certainly, there's always going to
18 be variations on story. If you think if
19 somebody tells a story one time, and then
20 they tell it another time, and then a third
21 story, that they may have a motive behind
22 what they're saying, to lie?

23 PROSPECTIVE JUROR: Yes.

24 MR. BRETTSCHEIDER: Ms. Abraham, one
25 of the things I think the Judge asked you

1
2 about was, there were circumstances on
3 Monday, in which you said you weren't sure
4 you could be a juror, because of a personal
5 situation.

6 PROSPECTIVE JUROR: It's not a personal
7 situation. It was my job.

8 MR. BRETTSCHEIDER: That's all cleared
9 up?

10 PROSPECTIVE JUROR: Yeah.

11 MR. BRETTSCHEIDER: If you had to stay
12 until the beginning of December, or
13 mid-December, you could give your full
14 attention to this case?

15 PROSPECTIVE JUROR: Yes.

16 MR. BRETTSCHEIDER: Let me ask you a
17 question, with regard to your own position,
18 your own work. In your work, you have to
19 deal with a lot of different people?

20 PROSPECTIVE JUROR: Yes.

21 MR. BRETTSCHEIDER: As far as being
22 able to do a competent job, do you have to
23 trust other people, as far as what they tell
24 you is the truth; and you have to rely on
25 them as to whether you can efficiently do

1
2 your job?

3 PROSPECTIVE JUROR: Yes.

4 MR. BRETTSCHEIDER: If somebody lied
5 to you -- well, let me ask you this:
6 Somebody gets on the witness stand, swears
7 they're going to tell the truth, are you
8 going to automatically believe they're
9 telling the truth?

10 PROSPECTIVE JUROR: No. I have to have
11 evidence.

12 MR. BRETTSCHEIDER: Mr. McKenna,
13 Mr. Jackson sits here, he's presumed
14 innocent. The fact that he is sitting here
15 as a defendant, certainly, something that is
16 probably unusual to most of us. Is that, in
17 any way, the fact that he's just here and
18 accused of a crime, somehow going to say to
19 you, well, they say he's presumed innocent.
20 But he's here. How do you feel about that?

21 PROSPECTIVE JUROR: Just the fact that
22 he's sitting here, doesn't prove that
23 anything happened in his particular case. I
24 would have to see proof that he was
25 responsible for the crimes he's accused of.

1
2 MR. BRETTSCHEIDER: Ms. Schneider,
3 same situation. The fact is, someone has
4 accused Mr. Jackson of extremely, extremely
5 serious crimes. He's sitting here, he's in
6 Court, on trial. The old expression is, you
7 know, where there's smoke, there's fire.
8 The fact that he's here, how do you feel?

9 PROSPECTIVE JUROR: I find it
10 disturbing.

11 MR. BRETTSCHEIDER: Disturbing to the
12 point where you may feel that you can't be
13 fair; or that the expression, or what is the
14 law, that he's presumed innocent, somehow
15 that would be a problem?

16 PROSPECTIVE JUROR: I couldn't accept
17 the responsibility of finding someone guilty
18 or not guilty. I just have a problem with
19 that.

20 MR. BRETTSCHEIDER: Ma'am, I mentioned
21 that you've had discussions about the law.
22 Certainly, the law, as it's going to be
23 given to you, may be different than even
24 discussions that lawyers have about these
25 things.

1
2 Mr. Jackson is sitting here. He's
3 accused of very serious crimes. How do you
4 feel about that? Do you -- the concept and
5 the law is, that he's presumed innocent.
6 Does that, in any way, the fact that he's
7 sitting here, he's accused of this crime,
8 have any influence on you?

9 PROSPECTIVE JUROR: No. I don't
10 understand someone not speaking on their
11 behalf.

12 MR. BRETTSCHEIDER: Do you remember, I
13 guess, the concept or the hypothetical that
14 I gave on Monday. Witness number one gets
15 on the stand. Using your life's experience,
16 common sense, you say, witness number one
17 isn't telling the truth.

18 Then witness number two gets on the
19 stand, and you don't believe that witness.
20 Then witness number three gets on the stand.
21 He tells an entirely different story from
22 witness number one and two. The district
23 attorney sits down and says, I rest.

24 Based on the fact that the law says
25 that the district attorney has to prove his

1
2 case to a jury, beyond a reasonable doubt,
3 the Judge instructs you that this is the
4 law, and asks you to go in and deliberate.
5 Based on the fact that what you heard, what
6 was presented to you, what the evidence was,
7 was such that you didn't believe any of
8 these witnesses. Could you then find
9 Mr. Jackson not guilty?

10 PROSPECTIVE JUROR: Yes.

11 MR. BRETTSCHEIDER: If you did didn't
12 hear from him, based on the scenario I gave
13 you, could you find him not guilty?

14 PROSPECTIVE JUROR: Yes.

15 MR. BRETTSCHEIDER: Ms. Baldwin, same
16 question. Certainly, I mean, we have
17 always -- we grow up. If there's a fight
18 between kids or siblings, or -- it's always,
19 you know, what's your story; what is your
20 story. Can you abide by the law which says
21 that the defendant doesn't have to testify?

22 PROSPECTIVE JUROR: Definitely.

23 MR. BRETTSCHEIDER: If you didn't hear
24 anything on his behalf, and had to just
25 depend on the witnesses for the prosecution,

1
2 could you make a determination in this case?

3 PROSPECTIVE JUROR: Yes.

4 MR. BRETTSCHEIDER: Could you find
5 Mr. Jackson not guilty, if the prosecution
6 didn't prove his case?

7 PROSPECTIVE JUROR: Definitely.

8 MR. BRETTSCHEIDER: You mentioned that
9 you were in the Police Academy and your
10 boyfriend is an ex-police officer. I'm not
11 going to ask you the reason why you decided
12 not to become a police officer. Do you
13 ever, you know, discuss between you and your
14 boyfriend, things that may have happened in
15 his career? You have a certain --

16 PROSPECTIVE JUROR: He's retiring in a
17 week.

18 MR. BRETTSCHEIDER: You really never
19 had -- that won't have any influence?

20 PROSPECTIVE JUROR: No.

21 MR. WALSH: Sir, before you were a
22 sergeant in Brooklyn, where else did you
23 work within the police department?

24 PROSPECTIVE JUROR: Bronx and Queens.

25 MR. BRETTSCHEIDER: Where were you in

1
2 Queens?

3 PROSPECTIVE JUROR: The 110th Precinct.

4 MR. BRETTSCHEIDER: How long were you
5 there?

6 PROSPECTIVE JUROR: Four years.

7 MR. BRETTSCHEIDER: When were you
8 switched over to Brooklyn?

9 PROSPECTIVE JUROR: June.

10 MR. BRETTSCHEIDER: I mean, certainly,
11 you know, one of the things that Mr. Walsh
12 mentioned, certainly a concern is, there's
13 going to be police officers testifying. The
14 question really is, a police officer gets on
15 the stand and testifies. If a police
16 officer gets on the stand, would you think
17 that somehow he would not have a motive to
18 lie?

19 PROSPECTIVE JUROR: No.

20 MR. BRETTSCHEIDER: Could you explain
21 to me, you know, your thoughts on a police
22 officer as a witness.

23 PROSPECTIVE JUROR: Well --

24 MR. BRETTSCHEIDER: You've testified
25 before?

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PROSPECTIVE JUROR: Yes.

MR. BRETTSCHEIDER: You must have discussed cases with other police officers. Have you ever known a police officer to take the stand and not tell the truth?

PROSPECTIVE JUROR: You never hear another person actually testify.

MR. BRETTSCHEIDER: Well, you've had discussions with other people. I mean, is there ever a situation where you say, you know --

PROSPECTIVE JUROR: Well, I have cops -- have cops lied in their testimony? Yes. We all know that. You know, you're outside a room when other people actually testify.

MR. BRETTSCHEIDER: Certainly, as a Sergeant now, and even when you worked on the force, has there ever been a situation, where somebody came and said they made an arrest; and you say, sound like it's BS?

PROSPECTIVE JUROR: Yes.

MR. BRETTSCHEIDER: Ms. Collins, I think you made yourself extremely clear, as

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2 far as your independence. Really, the
3 question I have is, somebody gets on the
4 stand. There is a police officer or a
5 detective. The fact that they are a
6 detective, would you give them any more
7 credibility, in the sense that as far as
8 motivation to lie? I mean, or would you say
9 to yourself, hey, I don't understand.
10 There's all kinds of secret motives that
11 people have.

12 How would you feel about evaluating the
13 testimony of a police officer or a
14 detective; somebody from the police force?

15 PROSPECTIVE JUROR: I don't think I
16 would give it any extra credence than
17 anybody else.

18 MR. BRETTSCHEIDER: The fact is, if
19 somebody says, I have been on the police
20 force twenty-five or thirty years?

21 PROSPECTIVE JUROR: I would hope that
22 everybody would be honest. I would hope
23 that everybody would tell the truth. I
24 don't think I would give law enforcement any
25 extra credence. I think sometimes, the

1
2 truth is -- it could be someone's own
3 perception. You can get varied stories.

4 MR. BRETTSCHEIDER: Thank you.

5 Mr. Flynn, certainly, --

6 THE COURT: You have one minute,
7 counsel.

8 MR. BRETTSCHEIDER: Certainly, you
9 probably walked into the courtroom and you
10 heard this was a murder case. How do you
11 feel about it?

12 PROSPECTIVE JUROR: It's a lot of
13 responsibility. When I first heard it, I
14 was taken back. It's a lot of time and a
15 lot of things to take into account. I just
16 feel that people have to do it. We need to
17 be here.

18 MR. BRETTSCHEIDER: Thank you.

19 THE COURT: Before you sit down, I
20 would like to discuss something with you at
21 the Bench.

22 (Whereupon the following side bar
23 conference took place outside the hearing of
24 the open courtroom:)

25 THE COURT: I didn't know if you wanted

1
2 to discuss this before you made your
3 selection. I have another note from a court
4 officer. Sworn juror in green, Mrs. Capri,
5 would like to speak to the Judge.

6 MR. BRETTSCHEIDER: I think we should
7 talk to her.

8 THE COURT: Maybe we should let the
9 ones sitting in the box go outside and
10 relax. We'll put the sworn jurors in the
11 jury room and find out what the problem is
12 with Ms. Capri.

13 (Whereupon the following took place
14 back within the hearing of the open
15 courtroom:)

16 THE COURT: Ladies and gentlemen, I
17 have another note that I have to handle.
18 Since we're going to be spending a little
19 time making the selection, I'm going to ask
20 you to just step outside for a few moments.
21 Don't leave. We'll call you in shortly.

22 Also, the forewoman can go into the
23 back, also.

24 (Whereupon the sworn juror and
25 prospective jurors left the courtroom)

1
2 THE COURT: Mrs. Capri, I received an
3 indication from my court officer that you
4 wished to see me. You are a sworn juror. I
5 don't see you privately. What is the
6 problem?

7 THE FOREWOMAN: I want to serve on the
8 jury, your Honor. You had mentioned,
9 however, on Monday, that this trial should
10 come to a conclusion sometime in the middle
11 of December. In the event that it doesn't
12 and it goes into January, I have a problem.
13 I have reservations and hotel accommodations
14 from January 23rd to March 4th. This is in
15 Florida, and Saint Thomas.

16 The tickets are in hand already.

17 THE COURT: I am confident that you
18 will be able to take your trip with no
19 problem; barring something completely
20 unforeseen. For example, God forbid, I'm in
21 some terrible accident and the trial shuts
22 down. I'm sure even then, we would have to
23 make other arrangements. Don't concern
24 yourself. We were being as realistic as we
25 could.

1
2 (Whereupon the jury forewoman left the
3 courtroom)

4 THE COURT: Counsel, you can make your
5 decision. Then we'll bring the jury back
6 in.

7 All right. Approach the Bench.

8 We have two sworn jurors. We're doing
9 the first ten.

10 Challenges for cause, People?

11 MR. WALSH: I would imagine
12 Mrs. Snider, number three --

13 MR. BRETTSCHEIDER: I consent.

14 THE COURT: She couldn't accept the
15 responsibility of finding somebody guilty or
16 not guilty. That's granted. Anything else?

17 MR. WALSH: No.

18 MR. BRETTSCHEIDER: Number five,
19 Mr. McGuire. The reason is, I know that
20 there was a point where he basically
21 rehabilitated himself. But he mentioned
22 something that really concerned me. It was
23 almost as though he's adding an additional
24 burden, as to where the gun came from.

25 There is going to be testimony in this

1
2 case, that my client bought the gun from a
3 crackhead for two hundred dollars. And I
4 think based on what this -- what Mr. McGuire
5 testified to, as to how the gun was
6 purchased, it was purchased on the street.
7 Some sort of convoluted theories that he
8 has, I just don't know whether he can be a
9 fair juror in this case; based on the
10 circumstances which he's laid out.

11 MR. WALSH: I'll make it easy and
12 consent.

13 THE COURT: Fine.

14 Any other challenges for cause?

15 MR. BRETTSCHEIDER: No.

16 THE COURT: Peremptory, People?

17 MR. WALSH: Number nine. That's
18 Barbara Henshy. And that's all.

19 THE COURT: Defendant, first ten,
20 peremptories.

21 MR. BRETTSCHEIDER: Number two, number
22 six, number seven, number eight and number
23 ten.

24 THE COURT: That only gives us two more
25 jurors, Ms. Baldwin and Mr. McKenna.

1
2 MR. WALSH: Yes.

3 MR. BRETTSCHEIDER: Yes.

4 THE COURT: The remaining ones in the
5 box, challenges for cause?

6 MR. WALSH: No.

7 MR. BRETTSCHEIDER: No.

8 THE COURT: Peremptory, People?

9 MR. WALSH: Ms. Abraham.

10 THE COURT: All right. That's all.
11 Defendant?

12 MR. BRETTSCHEIDER: Number thirteen.

13 THE COURT: That gives us two more. We
14 have six sworn.

15 (Whereupon the following took place
16 back in open court:)

17 THE COURT: Let's bring all the
18 prospective jurors, and our sworn jurors,
19 back in.

20 THE CLERK: Will the following please
21 remain seated: Geraldine Baldwin, Brian
22 McKenna, Nancy Shanley and Anthony Alcaid.
23 Everyone else is excused with the thanks of
24 the Court.

25 (Whereupon the remaining prospective

1
2 jurors that were in the jury box left the
3 courtroom)

4 THE CLERK: Are the remaining jurors
5 satisfactory to the People?

6 MR. WALSH: Yes.

7 THE CLERK: And to the defendant?

8 MR. BRETTSCHEIDER: Yes.

9 (Whereupon jurors numbers two through
10 six were sworn by the Clerk of the Court)

11 THE COURT: You may be seated. Ladies
12 and gentlemen, I'm going to excuse you all
13 for lunch, now. Then I'm going to bring in
14 the one hundred new jurors, and tell them a
15 little bit about the case.

16 Do not discuss the case among
17 yourselves or with others. Do not read or
18 listen to any accounts or discussions of the
19 case, reported by newspapers or other news
20 media.

21 Do not visit or views the premises or
22 any place where the offenses charged were
23 allegedly committed, or any other premises
24 or place involved in the case.

25 Promptly report to the Court any

1
2 incident by any person to influence any
3 member of the jury or to discuss the case.

4 Do not form any opinions. Keep an open
5 mind until the case is completed.

6 We'll see you back here at two o'clock.

7 (Whereupon the sworn jurors were
8 removed from the courtroom)

9 THE COURT: Let's bring in the new
10 panel.

11 (Whereupon a new panel of prospective
12 jurors were brought into the courtroom)

13 THE COURT: Good afternoon, ladies and
14 gentlemen. Welcome to County Court. My
15 name is Judge Abbey Boklan. I will be the
16 presiding Judge at this trial.

17 My apologies to those of you who came
18 in the first buses. Because we had to wait
19 until everyone got here to begin.

20 We are in the middle of a jury
21 selection. We have six sworn jurors. We
22 are going to be picking six more jurors, and
23 three alternates.

24 Normally, I would try, because you had
25 to wait outside for us, to work a little

1
2 into the luncheon recess. However, in this
3 case, I have a special meeting upstairs. We
4 call it our judges lunch and learn. Today,
5 we're learning a little more about cloning
6 of cellular phones. I'm supposed to be up
7 there five minutes ago.

8 Let me just tell you what this case
9 involved. The allegation is, the charges in
10 the indictment, are murder in the second
11 degree, intimidating a victim or witness in
12 the first degree, and hindering prosecution.
13 I don't know if all of you have had the
14 opportunity to fill out your questionnaires.
15 If you haven't, I ask you to please do that
16 over the luncheon recess. We will be taking
17 those from you when you are called into the
18 box.

19 I will explain to you in detail, when
20 we come back after lunch, a little more
21 about what the trial involves, our
22 scheduling. I will introduce the
23 participants to you.

24 At this time, I'm going to give you
25 some very brief admonitions, since you have

1
2 already been called into the courtroom; and
3 even though just the nature of the charges.

4 Do not discuss the case amongst
5 yourselves, or with others. Do not read or
6 listen to any account or discussions of the
7 case reported by newspapers or other news
8 media.

9 Do not visit or view the premises or
10 any place where the offenses charged were
11 allegedly committed, or other premises or
12 place involved in the case. Promptly report
13 to the Court any incident involving any
14 attempt by any person to influence any
15 member of the jury, or to discuss the case.
16 Do not form any opinions. Keep an open mind
17 until the case is completed.

18 We are going to have our luncheon
19 recess. Do not go back after lunch to
20 central jury. Meet outside this courtroom.

21 All of you, please meet outside of this
22 courtroom at two o'clock.

23 (Whereupon there was a luncheon recess,
24 after which Richard Glen recorded the
25 afternoon session)

1
2 COURT COURT : NASSAU COUNTY
3 PART I

4 -----X
5 THE PEOPLE OF THE STATE OF NEW YORK

6 -against-

7 JOSEPH JACKSON,

Defendant.

8 -----X
9 November 6, 1996
10 262 Old Country Road
Mineola, New York

11 B e f o r e:

12 HON: ABBEY L. BOKLAN,
13 County Court Judge

14 A P P E A R A N C E S:

15 (As before noted.)

16 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N.

17 THE COURT: All right. Let's get everybody
18 in.

19 (Prospective panel in the courtroom.)

20 THE COURT: Good afternoon, ladies and
21 gentlemen. I am happy to see you all back here.

22 One of the more interesting things I learned
23 at lunch is that if you have a phone, even if you
24 are not using it unless the power is off, it's
25 still sending a signal out.

1
2 But I'm going to now explain briefly, ladies
3 and gentlemen, what this trial involves and what
4 roles the Judge and jury play. We will also
5 determine who will actually sit as a juror in
6 this case. So, just relax, get comfortable and
7 I'll try to familiarize you with what is about to
8 happen.

9 My apologies to my six sworn jurors that
10 have to go through this again. I know you all
11 have heard it before.

12 The trial which is about to be commenced is
13 a trial action entitled, "The People of the State
14 of New York against Joseph Jackson," who is
15 referred to as the defendant.

16 The case involves the following charges:
17 Murder in the 2nd degree, intimidating a victim
18 or witness in the 1st degree and hindering
19 prosecution in the 2nd degree.

20 The alleged day of occurrence is March 20,
21 1994, the alleged victim is Steven Jason. And
22 the alleged victim of the hindering of
23 prosecution -- strike that, hindering prosecution
24 charge alleges criminal assistance was given to
25 Tony Jackson.

1 Peo. vs Jackson

2 Now, as jurors, you are going to be called
3 upon to determine whether or not the evidence
4 which you shall hear and see in this case
5 establishes the defendant's guilt of the charges
6 beyond a reasonable doubt.

7 In order to do this you will have to
8 evaluate all of the evidence at the end of the
9 trial to determine whether what you have heard
10 from the witnesses and seen as exhibits is true
11 and what it all means.

12 This is called finding the facts. That will
13 be your function alone. I will find no facts in
14 in trial.

15 Your ultimate decision is called a verdict.
16 Your verdict will either be guilty or not
17 guilty.

18 An attorney presents the evidence usually by
19 calling witnesses and only you can decide what
20 really happened, and the verdict as to each of
21 the counts will remain your decision alone. As
22 Judge I will make no determination of whether the
23 defendant is guilty or not guilty. My role at
24 trial is to ensure that you reach your verdict in
25 accordance with the law.

1 Peo. vs Jackson

2 And I will explain to you what the law is as
3 to all of the issues at this trial.

4 At times I may have to rule on questions
5 concerning the conduct of the trial. Those
6 rulings have nothing to do with whether this
7 defendant is guilty or not guilty.

8 I may also rule on questions concerning what
9 evidence you may consider and for what purpose.
10 When I make a ruling concerning whether you may
11 hear some testimony or see some exhibits which is
12 offered as evidence, I will be ruling on whether
13 or not you are permitted to hear it or see it as
14 a matter of law.

15 Likewise, if I instruct you to disregard
16 something that you might have heard, I will do so
17 because that is the law. None of my rulings
18 should be taken by you as any indication of
19 whether you should believe all or part of what is
20 offered as evidence or that the defendant is
21 guilty or not guilty.

22 That is solely your job to determine. But
23 you must accept the law as I give it to you if
24 the defendant and the People are to have a fair
25 trial to which they are entitled to.

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2 The People are represented by the District
3 Attorney of this county, Mr. Denis Dillon. Mr.
4 Michael Walsh, who is now standing, is an
5 assistant district attorney --

6 MR. WALSH: Good afternoon.

7 THE COURT: -- will be presenting the
8 People's case.

9 The defendant is represented by his
10 attorney, Mr. Scott Brettschneider. And that is
11 Mr. Brettschneider who is now standing.

12 MR. BRETTSCHEIDER: Afternoon.

13 THE COURT: And sitting next to Mr.
14 Brettschneider is Mr. Joseph Jackson, the
15 defendant. You may stand up as well, Mr.
16 Jackson.

17 The fact that this action is brought in the
18 name of the People or that the evidence is
19 presented by a public official does not in any
20 way indicate that the public wants a specific
21 verdict. The People of this state are served by
22 whatever verdict is justified by the evidence.

23 You may here reference to the fact that the
24 defendant was indicted by a grand jury. This to
25 is not and must not be taken as any evidence of

1 Peo. vs Jackson

2 guilt.

3 As a trial jury you must consider an
4 indictment as simply a piece of paper by which a
5 defendant is accused of a crime. Only you, as
6 members of the trial jury, can determine guilt
7 and the defendant is presumed innocent unless and
8 until you do find him guilty.

9 Serving on a jury is a vital function for
10 citizens under our system of laws. It is also a
11 very great responsibility, that is to accord to
12 the defendant and the People a fair trial.

13 In order to do so you must be free from any
14 preconceived notions or any sympathies or
15 prejudices that might prevent you from returning
16 a fair and just verdict based solely on the
17 evidence or the lack of evidence.

18 To help to ensure this, our first order of
19 business is to conduct an examination of the
20 prospective jurors. I will ask some questions of
21 you and after I'm finished the attorneys for both
22 parties will ask questions as well.

23 The purpose of these questions is not to
24 embarrass you or to discover any personal details
25 about your lives. It is simply to determine

1 Peo. vs Jackson

2 whether or not you are qualified to sit as jurors
3 in this case.

4 A number of you will not be selected. Some
5 of you may be excused because you are not
6 qualified to sit as a matter of law. That is
7 called excused for cause. Others may be excused
8 peremptorily which means by one of the attorneys
9 without any cause being given.

10 Being excused is not a reflection on you
11 either as a citizen or as a person. It is simply
12 a determination under the rules by one or more of
13 the parties or by me that you are not to sit on
14 this particular case.

15 Now, let's talk a little about scheduling.
16 I'm sure that's something that interests all of
17 you. As I explained to our sworn jurors, we here
18 in Nassau County were one of the originators of a
19 system now used throughout the state.

20 Now, it has a fancy name. It's called the
21 IAS system, the Individual Assignment System.
22 What it means is that a judge gets the case from
23 the very beginning.

24 So, at the same time that I'm handling this
25 trial I'm trying to juggle approximately 150

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2 other cases with their motions, their pleas,
3 their sentences, their applications.

4 So, what I do to make it as convenient for
5 all of you as possible is I try to do that first
6 thing in the morning. I get it out of the way so
7 I don't have to interrupt the trial.

8 Except for when you are deliberating, you'll
9 normally have your early morning to yourself. I
10 usually have you come here at 11. We take a
11 luncheon recess between the hours of 12:30 and
12 2. And except when you are deliberating, I will
13 try to have you out of the courtroom every day
14 between approximately 4:30 and a
15 quarter-to-five.

16 Because this is a criminal trial, however,
17 when you are actually deliberating you will be
18 sequestered at all times. This means that should
19 you continue to deliberate for more than one day,
20 then our law requires that hotel accommodations
21 be made available and that the jury be
22 sequestered each night before resuming their
23 deliberations on each following day.

24 Now, a little bit about the vacation
25 schedule here. You know we have some holidays

1 Peo. vs Jackson

2 coming up. We are closed for Veterans Day, the
3 11th. We are closed for Thanksgiving day, the
4 28th. And we will not be working on this trial
5 any Friday in the month of November.

6 So, even with being down those days we are
7 confident, and the attorneys have assured me,
8 that we will be finished with this case no later
9 than mid-December.

10 Now, before we start the examination I want
11 to make sure that none of you has any pressing
12 family or business obligations or any physical
13 problems that would prevent you from serving on a
14 jury.

15 Please, do not seek to avoid jury service
16 merely because it is inconvenient. I regret the
17 inconvenience but our whole system of trial by
18 jury, one of the most basic elements of our whole
19 system of justice, depends upon citizens who are
20 willing to sacrifice their time when called upon
21 to judge another person.

22 But if any of you cannot serve at this time,
23 please raise your hands now so we see.

24 Those who just raised your hands stand up,
25 please so I can do a count.

1 Peo. vs Jackson

2 Counsel, may I see you at the bench.

3 (Conference.)

4 THE COURT: All right. No one else please
5 stand because we've got our count now and, of
6 course, we'll try and go with those that are
7 willing to serve. If I see more people standing
8 up, I will not do it. We've had more people
9 standing up. Some others saw you and they got up
10 too. That's the problem.

11 All of you who didn't stand up originally,
12 please be seated. I think there was some back
13 there also, those who didn't stand originally.

14 All right. Those who are standing, please
15 meet outside the courtroom now because we have to
16 get your names and your pills. You are going
17 back to jury selection. You are going back to
18 Central Jury. You are not excused from jury
19 duty.

20 If any of you want to sit and change your
21 mind when you hear that, you can sit. But don't
22 nobody else stand up.

23 (Indicated jurors excused.)

24 THE COURT: All right. Let's count how many
25 we have left. About 50, counsel. All right.

1 Peo. vs Jackson

2 Get the names, and I don't know how you are going
3 to do that. Maybe take the questionnaires and
4 then you can let them go back.

5 My thanks, ladies and gentlemen. I know
6 that when we ask for this amount of time out of
7 your lives we're asking a lot. But if we didn't
8 get jurors such as yourselves, and my sworn
9 jurors who are willing to serve, we might as well
10 shut down the criminal justice system.

11 Now, at this time the law requires that the
12 names of 12 of you be drawn and those persons
13 take seats in the jury box. I ask those of you
14 who are not called into the jury box initially to
15 listen carefully because you will find that
16 you'll be asked many of the same questions.

17 And both I and the attorneys move much more
18 rapidly through the first -- after the first
19 round.

20 Before we do that, I'm going to ask the
21 clerk to swear all prospective jurors to answer
22 truthfully.

23 THE CLERK: Ladies and gentlemen, please
24 rise and raise your right hand.

25 (Jury sworn.)

1 Peo. vs Jackson

2 THE COURT: All right. Now, we're going to
3 play musical chairs. We're going to move all of
4 you in the box back, to the back.

5 (Box filled.)

6 THE COURT: Now, ladies and gentlemen, my
7 first series of questions will concern your
8 backgrounds in order to determine whether there
9 may be anything in them that may give rise to a
10 feeling or an attitude which might prevent you
11 from deciding this case solely on the evidence
12 alone.

13 I will start by asking them of all of you.
14 Your answers to these questions will not
15 necessarily qualify you or disqualify you.

16 If any of you wishes to respond
17 affirmatively or is not sure, please raise your
18 hand as soon as I've completed the question. If
19 you do not understand the question, please say
20 so.

21 The defendant, the defendant's attorney,
22 have all been identified to you as well as the
23 prosecuting attorney.

24 Do any of you know any of the prospective or
25 any of the participants to this proceeding?

1 Peo. vs Jackson

2 Anyone?

3 (No response.)

4 THE COURT: Now, among the witnesses who may
5 be called in this case are the following, and I
6 caution you that my mentioning the name imposes
7 no burden on either side to call that person as a
8 witness, nor does it mean the list may not be
9 expanded:

10 Detective Gary Abbondandolo, Homicide Squad,
11 Nassau County Police Department; Detective Robert
12 Dempsey, same squad; Detective Jerl Mullen, same
13 squad; Detective Peter Donato, same squad; Police
14 Officer Richard Paul Paulik, Freeport Police
15 Department; Police Officer Michael Pomorico,
16 Freeport; Detective Joseph Marino, Crime Scene
17 Search Unit, Nassau County; Detective Nicholas
18 Mattia, Scientific Investigation Bureau of the
19 Nassau County Police Department; Mr. Michael
20 Herts, retired detective from the 1st Squad,
21 Nassau County Police Department; Detective Brian
22 Parpan, Homicide Squad, Nassau County Police
23 Department; Detective Frank Allaire, 1st Squad,
24 Nassau County Police Department; Detective
25 William Tweedie, 1st Squad, Nassau County, Police

1 Peo. vs Jackson

2 Department; Detective Edward Haggerty, Freeport
3 Police Department, Mr. William Wallace, an
4 Assistant District Attorney from the Nassau
5 County District Attorney's Office; Michael
6 DiMartino, MD, Deputy Medical Examiner, Nassau
7 County Medical Examiner's Office; Mr. Christopher
8 M. Jordan; Official Court Reporter, Miss Isabelle
9 Vailes; Miss Skwanitra Witherspoon; Mr. Peddy
10 Jenkins; Mr. Tyrone Isaac; and Mr. Roy Isaac.

11 Do any of you know any of the prospective
12 witnesses in this case?

13 (No response.)

14 THE COURT: Now, I have just told you the
15 nature of the charges, the nature of the
16 charges. I think I mentioned the alleged date of
17 occurrence, the name of the alleged victim,
18 Stephen Jason.

19 Do any of you know anything about this case
20 other than what I have told you here in this
21 courtroom? Anyone?

22 (No response.)

23 (Voir dire examination by the Court.)

24 THE COURT: Mr. Walsh.

25 (Voir dire examination by Mr. Walsh.)

1 Peo. vs Jackson

2 THE COURT: Counsel.

3 (Voir dire examination by Mr. Brettschneider.)

4 THE COURT: When you are ready, please
5 approach.

6 (Following occurred at sidebar:)

7 THE COURT: We have 6 jurors, so we'll do
8 the first 6 first.

9 First 6, challenges for cause, People?

10 MR. WALSH: I would say number four, your
11 Honor, given his --

12 MR. BRETTSCHEIDER: I consent.

13 THE COURT: I beg your pardon?

14 MR. BRETTSCHEIDER: I consent.

15 THE COURT: All right.

16 Any others?

17 MR. WALSH: No.

18 THE COURT: Cause, first 6?

19 MR. BRETTSCHEIDER: Number 5.

20 MR. WALSH: We consent to number 5, your
21 Honor.

22 THE COURT: All right.

23 Peremptories in that first 6?

24 MR. WALSH: 2.

25 THE COURT: Defendant, peremptories?

1 Peo. vs Jackson

2 MR. BRETTSCHEIDER: Number 1 and number 6.

3 THE COURT: All right.

4 That gives us one juror, okay.

5 MR. WALSH: Yes.

6 MR. BRETTSCHEIDER: Yes.

7 THE COURT: Now we have 7. Next 5 jurors,
8 cause, People?

9 MR. WALSH: Number 11.

10 MR. BRETTSCHEIDER: I consent.

11 THE COURT: All right. Anyone else?

12 MR. WALSH: There were two, I would say that
13 there were two in particular, Miss Huso (Ph.) and
14 Miss Pullick (Ph.), who both indicated that they
15 had problems being uncomfortable sitting for a
16 length of time, Miss Huso, because of financial
17 difficulties. Miss Pullick said she was
18 uncomfortable sitting for a long time.

19 I challenge both for cause; 9 and 10.

20 MR. BRETTSCHEIDER: I'll leave it up to
21 you.

22 THE COURT: I beg your pardon?

23 MR. BRETTSCHEIDER: I consent.

24 THE COURT: Okay. Cause, defendant?

25 MR. BETTSCHNEIDER: No.

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2 THE COURT: Cause, People -- excuse me,
3 peremptory?

4 MR. WALSH: Both.

5 THE COURT: All right. That's everybody in
6 that group.

7 Now, the last group, last 3 cause, People?

8 MR. WALSH: I would say Miss Schissel (Ph.),
9 number 12.

10 MR. BRETTSCHEIDER: Consent.

11 THE COURT: Cause?

12 MR. WALSH: No.

13 THE COURT: Defendant, cause?

14 MR. BRETTSCHEIDER: No.

15 THE COURT: Peremptories, People?

16 MR. WALSH: No.

17 THE COURT: Peremptories, defendant?

18 MR. BRETTSCHEIDER: Both.

19 THE COURT: We'll take a short recess at
20 this time.

21 (Open court.)

22 THE CLERK: Carlos Rasha (Ph.), please
23 remain seated. Everyone else is excused with the
24 thanks of the Court.

25 THE CLERK: Will the remaining juror please

1 Peo. vs Jackson

2 rise and raise your right hand.

3 THE CLERK: Remaining juror satisfactory to
4 the People?

5 MR. WALSH: Yes.

6 THE CLERK: Satisfactory to the defendant?

7 MR. BRETTSCHEIDER: Yes.

8 (Juror sworn.)

9 THE CLERK: Please have a seat on the other
10 side there.

11 A JUROR: Could I have some water, please?

12 THE COURT: Yes.

13 THE COURT: Ladies and gentlemen, we're
14 going to take a short recess. Short with this
15 many people, we'll try to keep it under 10
16 minutes.

17 We'll resume again as soon as we get
18 everybody back together again. We'll see you in
19 approximately 10 minutes.

20 (Recess.)

21 MR. BRETTSCHEIDER: May I approach?

22 THE COURT: Yes.

23 (Conference.)

24 (Prospective panel in the courtroom.)

25 THE COURT: All right. Let's fill the box.

1 Peo. vs Jackson

2 (Box filled.)

3 THE COURT: I'll start with the most
4 important question first: Is there anyone who
5 feels that they cannot fairly and impartially sit
6 in this case? Anyone?

7 (Following occurred at sidebar:)

8 THE COURT: Mr. Green?

9 A JUROR: Yes. Well, I had a friend, he was
10 murdered this year and they didn't find any
11 witness or any -- no one was arrested for the
12 charges.

13 So, I feel kind of bad for the family and
14 stuff like that. I mean, still in my mind as of
15 today, because only happened like 2 months ago, I
16 think --

17 THE COURT: You feel that would affect you?

18 A JUROR: Yeah, and this case -- yes.

19 THE COURT: All right. Thank you. You are
20 excused.

21 (Open court.)

22 (Box Filled.)

23 THE COURT: Ma'am, can you be fair and
24 impartial?

25 A JUROR: Yes.

1 Peo. vs Jackson

2 THE COURT: Do any of you know any of the
3 participants or any of the prospective witnesses
4 or know anything about the case other than what
5 we have told you? Anyone?

6 Yes?

7 A JUROR: I believe I read something.

8 (Following occurred at sidebar:)

9 A JUROR: I recall it being reported in
10 Newsday when it first happened, and --

11 THE COURT: Start by telling us everything
12 that you remember.

13 A JUROR: Okay, I don't remember the
14 specific -- I remember there was a murder, and I
15 remember that it was not flattering to the
16 plaintiff. I guess that's all I remember though.

17 THE COURT: All right. Are you talking
18 about the defendant? You said plaintiff.

19 A JUROR: Yes, sorry.

20 THE COURT: How is this going to affect you
21 in this case?

22 A JUROR: I don't think it will.

23 THE COURT: All right. If I tell you now
24 sometimes I go home and I read a story about even
25 a proceeding in the courtroom and I don't

1 Peo. vs Jackson

2 recognize that I was in the same courtroom.

3 A JUROR: Yes.

4 THE COURT: He's laughing, but it's true.

5 Obviously, anything that you read in the Newsday
6 you can't take as being the facts of this case.

7 A JUROR; Can't always trust the media.

8 THE COURT: Besides that, they don't know,
9 they haven't heard the evidence.

10 A JUROR: Yeah.

11 THE COURT: Can you assure us that you will
12 put aside anything that you vaguely remember.

13 A JUROR: Yes.

14 THE COURT: All right. Including the fact
15 that you, something might not have been
16 flattering?

17 A JUROR: Yes.

18 THE COURT: Any questions?

19 MR. BRETTSCHEIDER: Do you remember
20 anything about the case?

21 A JUROR: I can't remember. I can't
22 remember.

23 THE COURT: Sorry?

24 A JUROR: I believe it was on page 3 on one
25 of the early pages, which is usually --

1 Peo. vs Jackson

2 MR. BRETTSCHEIDER: If, if there's
3 something that comes out during the trial do you
4 think it might jar your memory?

5 A JUROR: I don't think so, but I'm not
6 sure.

7 MR. BRETTSCHEIDER: The fact that you
8 remember this particular, this particular event
9 and that it was unflattering, is there something
10 -- this in your mind, will you say this, this
11 guy has done something because it was in the
12 newspaper?

13 A JUROR: I don't think so.

14 MR. BRETTSCHEIDER: Okay.

15 THE COURT: Anything?

16 MR. WALSH: No.

17 THE COURT: All right.

18 (Open court.)

19 THE COURT: Does anybody else know anything
20 about the case?

21 (Voir dire examination by the Court.)

22 THE COURT: All right. Ladies and
23 gentlemen, that concludes our proceedings for
24 today. We'll be beginning tomorrow morning with
25 the question from the attorneys starting with the

1 Peo. vs Jackson

2 assistant district attorney.

3 I'm going to give you some admonitions in a
4 moment.

5 Tomorrow we will meet at 11, 11 in the
6 morning. My court officers will tell you all
7 where to meet and, of course, they will direct my
8 sworn jurors as well.

9 Do not discuss the case among yourselves or
10 with others.

11 Do not read or listen to any accounts or
12 discussions of the case reported by newspapers or
13 any other news media.

14 Do not visit or view the premises or any
15 place where the offenses charged were allegedly
16 committed or any other premises or place involved
17 in this case.

18 Promptly report to the Court any incident
19 involving any attempt by any person to influence
20 any member of the jury or to discuss the case.

21 Do not form any opinions.

22 Keep an open mind until the case is
23 completed.

24 Have a very good evening. We'll see you all
25 at 11.

1 Peo. vs Jackson

2 Those of you in the back, ladies and
3 gentlemen, when you meet us tomorrow bring with
4 you your questionnaires so we'll have them when
5 you are called into the box.

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STATE OF NEW YORK : NASSAU COUNTY

COUNTY COURT PART I

- - - - -x

THE PEOPLE OF THE STATE OF NEW YORK, :

-against- :Ind. # 91607

JOSEPH JACKSON, :

Defendant. :

- - - - -x

November 7, 1996
262 Old Country Road
Mineola, New York

B E F O R E :

HON. ABBEY L. BOKLAN,
County Court Judge,
and a jury

A P P E A R A N C E S:

(As Previously Noted)

* * * * *

THE CLERK: People vs. Joseph Jackson.

Are the People ready?

MR. WALSH: Yes.

THE CLERK: Is the defendant ready?

MR. BRETTSCHEIDER: Yes.

1
2 THE COURT: Counsel, please approach.

3 (Whereupon the following side bar
4 conference took place out of the hearing of
5 the open courtroom:)

6 THE COURT: All right. Counselor, this
7 is juror number thirteen, Ms. Rothbaum. She
8 just asked to approach.

9 JUROR #13: You asked if any member of
10 your family has been a victim of a crime.
11 I'm sorry, I forgot. My mother had her
12 purse snatched some years ago.

13 THE COURT: Anyone apprehended?

14 JUROR #13: No.

15 THE COURT: Would that affect your
16 ability to be fair?

17 PROSPECTIVE JUROR: No. The other
18 thing is, a couple of years before, my
19 sister had her car broken into and her bag
20 stolen.

21 THE COURT: Would that affect you?

22 JUROR #13: No.

23 (Whereupon the following took place
24 back within the hearing of the open
25 courtroom:)

1
2 THE COURT: Good morning, everyone.
3 We're ready to continue.

4 Mr. Walsh?

5 MR. WALSH: Yes. You've heard probably
6 everything I'm going to ask already. I
7 don't know if you were here yesterday. It
8 might have been during the first panel that
9 was here. One of the prospective jurors,
10 when asked about how they felt about sitting
11 on a jury, especially in a case like this, I
12 think the comment made by the juror was that
13 she felt she couldn't accept the
14 responsibility of finding someone either
15 guilty or not guilty.

16 I don't know if you remember yesterday,
17 when I got up, I asked everybody whether or
18 not they felt that because of the nature of
19 the charges here, what's involved, they
20 would have any difficulty being a fair and
21 impartial juror.

22 Now, does anyone feel that way; that
23 because of what's involved here, they would
24 have a difficult time sitting on this jury.

25 PROSPECTIVE JUROR: I would like to

1
2 approach.

3 THE COURT: One at a time. Juror
4 number six was first. Ms. Williamson.

5 PROSPECTIVE JUROR: It's okay. I can
6 say it here. Last night, it was really
7 bothering me. I didn't think I would have a
8 problem with it. All night long, it's been
9 on my mind. I don't think, unless I witness
10 something, I could really make a decision
11 like that; or morally, want to make a
12 decision like that. It's very upsetting to
13 me.

14 THE COURT: Mr. Ridgey?

15 PROSPECTIVE JUROR: Yes. I would like
16 to come up there.

17 (Whereupon the following side bar
18 conference took place outside the hearing of
19 the open courtroom:)

20 THE COURT: Yes?

21 PROSPECTIVE JUROR: In this particular
22 incident, like I said on the paper, I had a
23 lot of things happening with me, as far as
24 criminal things. Everything that happened,
25 as far as the car, my wife, always involved

1
2 a black man. I have become very, very
3 prejudice.

4 THE COURT: That's enough. Thank you
5 for telling us. There's no sense in your
6 even sitting here through the rest of this.
7 You're excused. Mr. Ridgey is excused. Do
8 you want me to excuse Ms. Williamson?

9 MR. BRETTSCHEIDER: Yes.

10 MR. WALSH: I think so.

11 (Whereupon the following took place
12 back in the hearing of the open courtroom:)

13 THE COURT: Ms. Williamson, you're
14 excused.

15 (Whereupon the following side bar
16 conference took place outside the hearing of
17 the open courtroom:)

18 THE COURT: Ms. Caraldo, do you want --
19 you wanted to approach?

20 PROSPECTIVE JUROR: I filled out my
21 sheet, actually, incorrectly.

22 THE COURT: What number are you? Seat
23 number nine.

24 PROSPECTIVE JUROR: It says convicted
25 of a crime, somebody in the family.

1
2 THE COURT: Your close friend, family
3 members or yourself.

4 PROSPECTIVE JUROR: Actually, my
5 grandfather has been incarcerated for ten
6 years. I actually can't do this. I think
7 this whole thing is a big joke. He's
8 eighty-three years old. He can't get out.

9 THE COURT: I don't want anybody
10 sitting on a murder trial who thinks it's a
11 big joke. You're excused.

12 (The following took place back within
13 the hearing of the open courtroom:)

14 THE COURT: Mr. Leutia? What's your
15 problem, sir?

16 PROSPECTIVE JUROR: Well, I just want
17 to make the distinction between being fair
18 and being equitable. I think being fair, I
19 could judge a person's testimony in a fair
20 way. I don't think I would be able to be
21 equitable in believing a police officer
22 testimony, as opposed to a person who has a
23 track record of committing crimes. There's
24 a difference between being fair and
25 equitable.

1
2 THE COURT: What you're saying is
3 completely logical and makes sense. But
4 what we're talking about is, even before you
5 hear someone's qualifications, criminal
6 record, making a decision purely because of
7 their occupation, in advance of listening.

8 We're not asking you to not do what you
9 just said. That's what you should be doing.
10 You should be weighing credibility. One of
11 the factors you can consider, is someone's
12 prior criminal record; someone's employment
13 experiences, training, all those things.
14 You should be considering those. We're
15 concerned with a closed mind before you
16 listen. That you make a determination that
17 you believe or not believe someone.

18 PROSPECTIVE JUROR: At the beginning,
19 at the top, just based on a person's
20 background, I think in the back of my mind,
21 I would more tend to believe one than the
22 other. That's what I'm trying to relay
23 here.

24 THE COURT: Before you even listen and
25 hear their background?

1
2 PROSPECTIVE JUROR: That could be
3 changed, depending on what I hear. But
4 before I hear them, I would tend to believe
5 a person who's life is devoted to protecting
6 the people, as opposed to someone selling
7 drugs, or involved in some other crime.

8 THE COURT: You won't certainly know if
9 a person is involved in selling drugs or
10 some other crime, until you hear the
11 witness. You won't be able to hear if a
12 police officer's life is devoted to his
13 community, or something is the matter with
14 him, either, until you stop and listen to
15 the person. You listen to the
16 cross-examination, if there is any.

17 All we're asking is for you to have an
18 open mind. Not leave your common sense
19 behind. Do you think you could do that:
20 Keep an open mind; listen, wait until you
21 learn and hear, before you make a decision?

22 PROSPECTIVE JUROR: Sure. But I'm just
23 letting you know that there is that --

24 THE COURT: We appreciate your candor.
25 It's easy to give us the answers you think

1
2 we want to hear.

3 MR. WALSH: I'm going to keep picking
4 on you, Mr. Leutia. I mentioned to the
5 group yesterday that there is a very good
6 possibility that one of the witnesses that I
7 called, would be somebody who might have
8 been convicted of a crime before; and who
9 you may find was involved in this case, as
10 well, even as an accomplice to some extent.

11 Now, you have just made your feelings
12 known; I think very reasonably, by the way.
13 Somebody's background, whether it be their
14 criminal record, motivations they may have;
15 anything that they bring to the witness
16 stand, is something that you're going to
17 consider in evaluating their credibility.

18 I think you remember yesterday, I said
19 that you should. You have every right to
20 consider someone's background in evaluating
21 their credibility. You should do that, in
22 the very same manner that you said.

23 What I am concerned about is, that
24 somebody's feelings, such as yours, go to
25 the extent that if they were to hear from

1
2 someone who has a criminal record, or who
3 may have been involved in this incident, as
4 well, that you're just going to say, you
5 know what, I don't like who they are. I
6 don't approve of their lifestyle. I don't
7 like what they're involved in. I don't want
8 to hear what they have to say. I'm not
9 going to even consider what they have to
10 say.

11 What I would like to have is somebody
12 who, as I said, would consider background or
13 anything else; but would say, I'm going to
14 give a fair shake. I'm going to listen to
15 what they have to say. Maybe see if what
16 they have to say is consistent with other
17 evidence in the case; other evidence you
18 find credible in the case. Wait to see if
19 what the person says, makes sense, before
20 you make an evaluation.

21 As we said before, I don't want you to
22 tell me what I want to hear. I don't want
23 to have you tell me what you think the right
24 answer is. I want your gut feeling. Do you
25 think you could give a witness like that a

1
2 fair shake, in the manner that I have
3 described.

4 PROSPECTIVE JUROR: As far as listening
5 to what they have to say, yes. As far as
6 believing what they have to say, maybe not.

7 MR. WALSH: All right. When you say,
8 as far as believing what they have to say,
9 are you feeling such that you would feel
10 that there is a chance that you would
11 automatically say, I don't believe what they
12 have to say?

13 PROSPECTIVE JURO: No.

14 MR. WALSH: In other words, just
15 knowing that, and before you really listen,
16 before you compare it to other evidence that
17 you hear in the case, to see if it makes
18 sense or it's consistent --

19 PROSPECTIVE JUROR: I don't think so.

20 MR. WALSH: You may not be able to tell
21 me, yes, I can; no, I can't. Is there a
22 danger that you wouldn't be able to give me
23 a fair shake?

24 PROSPECTIVE JUROR: I don't think so.
25 However, I just want everyone to know that I

1
2 did have that concern.

3 MR. WALSH: Yesterday, do you remember
4 I asked people, a whole bunch of people,
5 whether it would matter to them whether the
6 victim was black or white, or young or old;
7 male or female. Does any of that matter to
8 you?

9 PROSPECTIVE JUROR: No.

10 MR. WALSH: I also said, what if you
11 found out that the victim had sold drugs
12 during the course of his life. Would that
13 matter to you, to the extent that you would
14 tend to take this case less seriously than
15 some other case you might sit on?

16 PROSPECTIVE JUROR: I wouldn't take the
17 case less seriously. I would take, maybe,
18 the testimony that that person is giving
19 less seriously than in comparison to another
20 person who doesn't have that track record.

21 MR. WALSH: In this case, the charge is
22 murder. You're not going to have a victim
23 testify. The victim isn't with us anymore.
24 So his credibility is not an issue in the
25 case. You're not going to have to evaluate

1
2 his truthfulness.

3 Knowing that -- and this is what I'm
4 getting at -- would the fact that you found
5 out that he had sold drugs during his
6 lifetime, would that influence your decision
7 in any way; whether or not this defendant is
8 guilty or not guilty?

9 PROSPECTIVE JUROR: No.

10 MR. WALSH: What I'm getting at
11 ultimately, is this: Whatever your verdict
12 is in this case, be it guilty or not guilty,
13 what I would like to have is any juror on
14 this case, their assurance, that that
15 verdict would be based on the evidence, and
16 nothing else. Whether it's emotional
17 considerations, sympathy, feeling about who
18 the victim was; any outside restraining
19 influences. Can you put those aside and
20 just determine the case based upon the
21 evidence?

22 PROSPECTIVE JUROR: You're saying that
23 one of the people who will testify may have
24 been involved in the case?

25 MR. WALSH: Yes.

1
2 PROSPECTIVE JUROR: I might have a hard
3 time putting that aside. The way I would
4 look at the testimony, if I found out the
5 victim sold drugs, I would find that very
6 hard to put aside.

7 MR. WALSH: Let's take the victim.
8 Hard to put aside, in what way?

9 PROSPECTIVE JUROR: Which one?

10 MR. WALSH: Say you found out the
11 victim in this case, who was killed, sold
12 drugs during the course of his lifetime.

13 PROSPECTIVE JUROR: Can I come up?

14 THE COURT: Certainly,

15 (Whereupon the following side bar
16 conference took place outside the hearing of
17 the open courtroom:)

18 PROSPECTIVE JUROR: My gut reaction
19 might be, maybe he or she deserved it.

20 THE COURT: Take that to the extreme.
21 You decide the world may be better off
22 without this person. Will you still be able
23 to make a fair determination as to whether
24 the defendant is guilty or not guilty?

25 PROSPECTIVE JUROR: I'm not sure.

1
2 THE COURT: Well, then, I can't take
3 the chance. I'm excusing you.

4 (The following took place back within
5 the hearing of the open courtroom:)

6 MR. WALSH: As you can just see, what I
7 said before, I think is really true. Your
8 answers that you think might be the right
9 answers, and answers that are truthful, and
10 come from your gut -- you know, while the
11 right answer may be, or what you think the
12 right answer may be, it doesn't matter to me
13 who the victim was. I'm going to evaluate
14 this case based on the evidence, alone.
15 Some people can't do that. That's okay.

16 What I would ask -- a couple of people
17 have spoken up. What I would ask, is that
18 if that's the case with you, that you let us
19 know now.

20 PROSPECTIVE JUROR: What you're asking
21 us, is not to be human. We're all based on
22 emotion and factors like that. If the
23 testimony is based on evaluating different
24 personalities, also. If I look at the
25 person, and I say, geez, I don't believe

1
2 anything he has to say; that doesn't occur
3 until you see the person.

4 MR. WALSH: Right. Please don't
5 misunderstand what I'm asking of you. I am
6 not asking you not to be human. I'm not
7 asking you not to feel any emotion that you
8 would otherwise feel. That's not what I'm
9 asking.

10 If you remember yesterday, I had said
11 to the people who were here, you should
12 consider somebody's background. You should
13 consider who a person is, in evaluating
14 their credibility. You're not going to know
15 that, until you see them up on that witness
16 stand testifying. That's fine.

17 What I was getting at was, we have a
18 case here where the charge is murder.
19 Obviously, the victim isn't with us anymore.
20 As a result, you're not going to see the
21 victim get on the witness stand and testify.
22 His credibility, whether or not he tells the
23 truth or not, isn't an issue in the case.
24 You're not going to have any testimony from
25 him to evaluate.

1
2 What I'm concerned about is, if you
3 find out during the course of the case, that
4 the victim was somebody whose lifestyle you
5 might not approve of, who did some things
6 that you wouldn't do, and you wouldn't
7 approve of anybody doing, would that tend to
8 make you take this case and what happened to
9 this person less seriously than you would if
10 the victim was somebody else? I'm not
11 talking about evaluating truthful testimony.

12 PROSPECTIVE JUROR: Given the scenario
13 that you gave me, if somebody was involved
14 with crime and was a victim, and somebody
15 who was an upstanding citizen in all
16 respects, yeah. Obviously, I would have
17 some prejudices.

18 MR. WALSH: I'm hoping I didn't mislead
19 you. I want to see if I did. When I talk
20 about the victim in this case, I said you
21 may find out that he had sold drugs in the
22 past. What I think you'll find is that that
23 was unrelated to anything that happened in
24 this case. It's something you may learn
25 about him; but not something that would

1
2 affect whether or not Joseph Jackson
3 committed this crime or not. I hope I
4 didn't mix the two together.

5 On the one hand, I was talking about a
6 witness who may testify, who has a criminal
7 record; as opposed to a victim who will not
8 testify, and has a criminal record. His
9 criminal record doesn't affect what happened
10 in this case.

11 Would that, as far as who a victim was,
12 would that tend to make you take the case
13 any less seriously?

14 PROSPECTIVE JUROR: No. I would be
15 prejudice.

16 MR. WALSH: Anybody else? I'm going to
17 sit down in a moment. Before I sit down,
18 any reason -- I know I didn't get a chance
19 to speak to all of you. Any reason anyone
20 else, why they feel they might not be fair
21 and impartial?

22 Thank you.

23 THE COURT: Mr. Brettschneider?

24 MR. BRETTSCHEIDER: Thank you. Just
25 want to follow up on a few things Mr. Walsh

1
2 touched on, with regard to potential
3 witnesses in this case.

4 Certainly, there has been mention of
5 the fact that people who have criminal
6 records may testify in this case. Does the
7 fact that somebody does have a criminal
8 record -- of course, that doesn't indicate
9 that their testimony should not be worthy of
10 belief -- but would you suspect that if a
11 person had been involved from the time they
12 were a young person until the present in
13 criminal activity, that they may have some
14 sort of hidden motive, and may have a
15 propensity to lie?

16 PROSPECTIVE JUROR: It's a possibility.

17 THE COURT: Could you speak up, please?

18 PROSPECTIVE JUROR: I would hope I
19 would evaluate the case on the facts as they
20 were given.

21 MR. BRETTSCHEIDER: So even though
22 somebody may have been in trouble in the
23 past, that doesn't mean that they're not
24 telling the truth.

25 PROSPECTIVE JUROR: Exactly.

1
2 MR. BRETTSCHEIDER: In this situation,
3 one of the things that may potentially
4 happen, is that there will be police
5 officers who will testify in this case.
6 Certainly, from the time that we've been
7 young -- you know, we were told the police
8 are here to protect us. They're also here
9 to do a job. People do jobs and people do
10 things in their jobs for whatever reasons.
11 You, in your own experience, knowing people
12 you have worked with, who, for whatever
13 reason, have done something that's
14 unexplainable, as far as not doing what they
15 were supposed to do, or even to the point of
16 not telling the truth in completing, you
17 know, something they were supposed to do.

18 PROSPECTIVE JUROR: Other than a police
19 officer?

20 MR. BRETTSCHEIDER: Right.

21 PROSPECTIVE JUROR: Oh, sure,

22 MR. BRETTSCHEIDER: Let's take a
23 police officer. Is it possible that a
24 police officer could do the same thing --

25 PROSPECTIVE JUROR: Sure.

1
2 MR. BRETTSCHEIDER: Is it possible
3 that a police officer may get on the witness
4 stand and, for whatever reason, unbeknownst
5 to you or any members of the jury, but based
6 on your common sense and life experience,
7 know that even though he's raised his hand
8 to tell the truth, he is not telling the
9 truth?

10 PROSPECTIVE JUROR: Sure.

11 MR. BRETTSCHEIDER: Why do you feel
12 that way?

13 PROSPECTIVE JUROR: Because of stories
14 that I have read. I guess that's what I
15 have read about.

16 MR. BRETTSCHEIDER: Ms. Randazzo, we
17 talked yesterday about the fact that this is
18 a murder case. There may be pictures that
19 may be graphic. In looking at the pictures
20 and seeing that someone was killed -- and
21 certainly there has to be a sense of
22 sympathy for anyone, no matter who that
23 person is -- would that sympathy come to a
24 point where it may affect your judgment as
25 to whether you could be fair to Mr. Jackson?

1
2 PROSPECTIVE JUROR: No.

3 MR. BRETTSCHEIDER: Why do you feel
4 that way?

5 PROSPECTIVE JUROR: I would say just
6 looking at the pictures is just confirming
7 that something did happen. All the facts
8 determine that decision.

9 MR. BRETTSCHEIDER: If Mr. Jackson
10 didn't testify in this case, you didn't hear
11 from him, would that have some sort of
12 negative impact upon you, in making a
13 determination as to whether he was guilty or
14 not?

15 PROSPECTIVE JUROR: If he did not
16 testify?

17 MR. BRETTSCHEIDER: Right.

18 PROSPECTIVE JUROR: I don't think so.

19 MR. BRETTSCHEIDER: Mr. Whence, what
20 about you? The fact that you didn't hear
21 from Mr. Jackson, went through a complete
22 trial, three, four weeks of testimony, and
23 that at the end of the trial, you heard all
24 the evidence. Somehow, you haven't heard
25 from Mr. Jackson.

1
2 PROSPECTIVE JUROR: I know if I was up
3 there, I would be screaming bloody murder
4 that I want my side of the story. Even
5 though my attorney may say, leave it alone,
6 I would still want to say something.

7 MR. BRETTSCHEIDER: Let's say you were
8 sitting where Mr. Jackson is sitting. Using
9 your common sense and life experience, you
10 sat where Mr. Jackson was sitting. You
11 heard a number of witnesses. You said to
12 yourself, you know something, they're all
13 lying. They're all lying. They're not
14 telling the truth. The jury has to feel the
15 same as I do. These witnesses are not
16 telling the truth.

17 And your lawyer says to you,
18 Mr. Whence, don't go up there. The jury is
19 going to make a determination on the
20 evidence that they have heard. What would
21 you do?

22 PROSPECTIVE JUROR: It's my life. I
23 would go up.

24 MR. BRETTSCHEIDER: If you didn't hear
25 from Mr. Jackson, you would have some sort

1
2 of -- it would have an influence on you, on
3 making a determination?

4 PROSPECTIVE JUROR: Honestly, yes.

5 MR. BRETTSCHEIDER: Ms. Kelly, what
6 about you? Same question: You didn't hear
7 from Mr. Jackson. You heard three weeks of
8 testimony. You didn't hear from
9 Mr. Jackson. Would that have an influence
10 upon you?

11 PROSPECTIVE JUROR: No.

12 MR. BRETTSCHEIDER: Why do you feel
13 that way?

14 PROSPECTIVE JUROR: I guess it's just
15 my work experience.

16 MR. BRETTSCHEIDER: Let's talk about
17 your work experience. Certainly, before
18 attorneys were allowed to be on juries, we
19 never had a problem wondering whether a
20 person who was sitting there knows more than
21 the person who's standing here.

22 PROSPECTIVE JUROR: I assure you I do
23 not.

24 MR. BRETTSCHEIDER: Well, I'm sure you
25 do remember things from law school. Just

1
2 from your general knowledge of the law. How
3 will that impact on you making a
4 determination? If you hear an instruction
5 from the Judge as to what the law is, and
6 somehow, in the back of your mind, you say,
7 you know, I remember reading a case back in
8 law school. I think the Judge is wrong.
9 Would you still follow the Judge's
10 instruction?

11 PROSPECTIVE JUROR: My personal opinion
12 is that lawyers would be able to follow the
13 law, probably better than most non-lawyers.

14 MR. BRETTSCHEIDER: Do you feel
15 comfortable sitting on a case such as this?

16 PROSPECTIVE JUROR: Yes.

17 MR. BRETTSCHEIDER: You're a nurse,
18 ma'am.

19 PROSPECTIVE JUROR: Yes, sir.

20 MR. BRETTSCHEIDER: One of the things
21 I asked everybody yesterday, was with regard
22 to paperwork that had to be prepared. In
23 your job, you do prepare a great deal of
24 paperwork.

25 PROSPECTIVE JUROR: Yes.

1
2 MR. BRETTSCHEIDER: It's important,
3 based on the fact that there may be
4 witnesses who are going to testify as to
5 their paperwork. If there would be a
6 continuing pattern of, for lack of a better
7 word, let's say, sloppiness, would you
8 question their reliability as far as being a
9 witness?

10 PROSPECTIVE JUROR: If they used the
11 paperwork to read it, to refresh their
12 memory, no. If they used the paperwork
13 solely as their testimony, probably, yes.

14 MR. BRETTSCHEIDER: Let's say, for
15 instance, somebody testified that an arrest
16 happened on a particular day. And then,
17 somehow, someone shows him something else, a
18 paper that he prepared, which indicates
19 something different. Would you then
20 question the reliability of that witness?

21 PROSPECTIVE JUROR: I would question
22 the reliability of his memory of it, yes.

23 MR. BRETTSCHEIDER: Mr. Dunne,
24 certainly, in being a good juror, you have
25 to evaluate witnesses. I know some of the

1
2 things you were talking about with
3 Mr. Walsh. I think they're very relevant
4 and extremely important.

5 In judging other people in your own
6 life, what do you look for in make making a
7 determination? One would be the example I
8 used. Often times, we have repairmen to
9 come to our house to fix a television or
10 washing machine. They show you something
11 about as big as an inch. They say, you need
12 to replace this. It's going to cost you
13 seven hundred fifty dollars. You don't know
14 the repairman. How do you know whether to
15 trust that person.

16 PROSPECTIVE JUROR: Do I have to make
17 that decision immediately? Or do I have
18 time to research it?

19 MR. BRETTSCHEIDER: You probably have
20 some time to research it.

21 PROSPECTIVE JUROR: Then I say, I'll
22 give you an answer in a day or so.

23 MR. BRETTSCHEIDER: If, in this case,
24 as a juror, certainly you are going to not
25 have to make a decision right away. But

1
2 you're going to have to make a determination
3 as far as the witnesses' testimony. Are you
4 going to also look to other witnesses, in
5 making a determination as to whether that
6 testimony is worthy of belief, as far as
7 corroboration of one witness's testimony
8 with another one; in regard to, again, not
9 making a snap judgment on the witness, but
10 looking at the whole bigger picture?

11 PROSPECTIVE JUROR: Yes.

12 MR. BRETTSCHEIDER: What are the
13 things that you look for in making a
14 determination whether someone is telling the
15 truth?

16 PROSPECTIVE JUROR: The consistency.
17 Whether the testimony is consistent. Based
18 on life knowledge; whether it sounds true or
19 not; things like that.

20 MR. BRETTSCHEIDER: Mr. Leutia, one of
21 the questions I asked, I think two days ago,
22 if you were in a situation where there
23 was -- it was eleven to one. You were asked
24 to deliberate. You were the one person
25 sitting on the jury, for four or five weeks.

1
2 The inclination is to want to go home. If
3 you were the one person who disagreed with
4 the other eleven members, what would you do
5 in that situation? If you had eleven people
6 yelling at you, saying, listen, let's get
7 out of here. You're holding us up. It's
8 over. Just change your vote.

9 PROSPECTIVE JUROR: I would need them
10 to show me how I was wrong, in any way. If
11 they could show me, in one instance or three
12 instances, how my thinking was wrong, I
13 would change. If they could not show me, in
14 any instance how my thinking was wrong, I
15 don't know exactly the process, but I would
16 have to stick it out.

17 MR. BRETTSCHEIDER: Let me ask you the
18 same question, sir. It sounds good when
19 you're asking this question at the beginning
20 of the trial. Just think of coming here for
21 five weeks; listening to testimony, staying
22 here until four-thirty in the afternoon, and
23 this is an important question. At some
24 point, it's a very serious decision that has
25 to be made. What would you do?

1
2 PROSPECTIVE JUROR: Well, if I had come
3 to my decision, I consider myself a fairly
4 intelligent person. I would have to agree
5 with him. Prove me wrong. This is what --
6 this is the information I gathered from the
7 testimony. This is what I believe. Show me
8 that I'm wrong. Show me if I made a
9 mistake. Is my thinking wrong.

10 MR. BRETTSCHEIDER: Great in theory.
11 Right answer. It's December. It's snowing,
12 it's cold. People are saying to you, change
13 your mind.

14 PROSPECTIVE JUROR: No. A man's life
15 is on the line.

16 MR. BRETTSCHEIDER: I have nothing
17 further.

18 THE COURT: When you're ready,
19 approach.

20 (Whereupon the following side bar
21 conference took place outside the hearing of
22 the open courtroom:)

23 THE COURT: Counsel, we have seven
24 jurors. We're talking about the first five
25 first. That's the first row. Challenges

1
2 for cause, People?

3 MR. WALSH: No.

4 THE COURT: For cause, defendant?

5 MR. BRETTSCHEIDER: Number two.

6 MR. WALSH: I consent.

7 THE COURT: Granted.

8 Any further for cause?

9 MR. BRETTSCHEIDER: No.

10 THE COURT: Peremptory, People?

11 MR. WALSH: Numbers three and five.

12 THE COURT: Defendant?

13 MR. BRETTSCHEIDER: Both.

14 THE COURT: Now, we're on the last
15 three in the box. Challenges for cause,
16 People?

17 MR. WALSH: No.

18 THE COURT: Cause, defendant?

19 MR. BRETTSCHEIDER: No.

20 THE COURT: Peremptory, People?

21 MR. WALSH: I'm afraid so. Number
22 eleven and thirteen.

23 THE COURT: Peremptory, defendant?

24 MR. BRETTSCHEIDER: No.

25 THE COURT: That gives us one juror.

1
2 (Whereupon the following took place
3 back within the hearing of the open
4 courtroom;)

5 THE CLERK: Mrs. Randazzo, please
6 remain seated.

7 Everyone else is excused with the
8 thanks of the Court.

9 (Whereupon the remaining prospective
10 jurors left the jury box)

11 THE CLERK: Is the remaining juror
12 satisfactory to the People?

13 MR. WALSH: Yes.

14 THE CLERK: And to the defendant?

15 MR. BRETTSCHEIDER: Yes.

16 (Whereupon Juror Number Eight was duly
17 sworn by the Clerk of the Court)

18 THE COURT: Please fill the box.

19 (Whereupon fourteen prospective jurors
20 were called to the jury box)

21 THE COURT: Counsel, approach the
22 Bench.

23 (Whereupon the following side bar
24 conference took place outside the hearing of
25 the open courtroom:)

1
2 THE COURT: We have a juror in the back
3 now, who indicates that he had left early
4 yesterday, and was told to come back today.
5 Do you want him? I'll be guided by you.

6 MR. WALSH: I don't think it's a good
7 idea. He wasn't here for your admonitions.

8 MR. BRETTSCHEIDER: I agree.

9 THE COURT: I'm excusing him.

10 (Whereupon the following took place
11 back within the hearing of the open
12 courtroom:)

13 THE COURT: Mr. Esposito, you're
14 excused from this case.

15 Everyone, I'm going to ask the most
16 important question first. You've been
17 listening here now for most of yesterday;
18 and, of course, this morning. Does anyone
19 know of any reason that you can't fairly and
20 impartially sit in this case? I'm going to
21 take you one at a time at the Bench.

22 (Whereupon the following side bar
23 conference took place outside the hearing of
24 the open courtroom:)

25 THE COURT: Mr. Carbone, what's the

1
2 problem?

3 PROSPECTIVE JUROR: I was arrested for
4 possession of firearms.

5 THE COURT: Certainly, you feel it
6 would not be a good case for you.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: You're excused.

9 All right. Mrs. Margolies?

10 PROSPECTIVE JUROR: I work three days.
11 I have a four year old and seventeen month
12 old. On the dates I don't work, I'm the
13 primary care giver. It's very hard. I have
14 no family here to care for the children.
15 Beside that, I'm a business consultant who,
16 with my business as well as other
17 businesses, it's coming to the fiscal year
18 end. There's a lot of things that need to
19 take place.

20 THE COURT: Well, I'm concerned with
21 the young children.

22 PROSPECTIVE JUROR: I'm concerned about
23 that, too.

24 THE COURT: Your husband would not be
25 able to take over for you?

1
2 PROSPECTIVE JUROR: No.

3 THE COURT: You're excused.

4 Mrs. Ditore.

5 PROSPECTIVE JUROR: I can't do this,
6 your Honor. Morally, I feel that -- I'm
7 shaking already. I can't go through with
8 the graphic pictures, because they would
9 upset me very much.

10 THE COURT: You're excused.

11 Mr. Budmore.

12 PROSPECTIVE JUROR: I'm a police
13 officer in Brooklyn. I don't think I could
14 do this fairly.

15 THE COURT: Thank you. You're excused.

16 Mr. Santangelo.

17 PROSPECTIVE JUROR: Just thinking about
18 the case last night. I know the question
19 was, if you had a close friend who was the
20 victim of a crime. We had a double murder
21 in the office last year. It was business
22 associates that I knew quite well. After
23 thinking about this case, I honestly
24 wouldn't be able to be impartial.

25 THE COURT: Excused.

1
2 Sir?

3 PROSPECTIVE JUROR: I feel a little bad
4 for saying this. A little over a year ago,
5 my brother was arrested. He was set up by
6 some detectives, as part of a drug deal. He
7 did not sell drugs. He was not involved in
8 it. It dragged on for quite a long time.
9 It's costing him well over ten thousand
10 dollars in legal fees. It's just finally
11 being settled. I don't feel I could be very
12 fair in looking at police officers;
13 although --no. I don't think I could be
14 impartial.

15 THE COURT: Thank you. You're excused.
16 Ms. Sinclair.

17 PROSPECTIVE JUROR: I don't know that I
18 would be very fair, because of my career. I
19 am in sales. It's toward the end of the
20 year. I'm very preoccupied with quota and
21 things. I think if it was on a prolonged
22 basis, I must succumb to, like your question
23 before, if I was the only one that didn't go
24 along with the rest of the jury.

25 THE COURT: There is no duty to hold

1
2 out, if you are convinced. But if it's just
3 the time, I think what counsel was trying to
4 say, if you're concerned about the time or
5 getting back to your job, or it's due to
6 snow, or anything like that. That can't be
7 the reason.

8 Are you telling me because you would be
9 concerned about getting back to work, you
10 would want to just get it over with?

11 PROSPECTIVE JUROR: I might. I think
12 I'm preoccupied as it is. Never mind having
13 gone on for six weeks.

14 THE COURT: You're excused.

15 Mr. Warden?

16 PROSPECTIVE JUROR: I have a few police
17 officers in my family. I believe in the
18 integrity of the police officers. What they
19 say, as far as I'm concerned, goes.

20 THE COURT: You're excused. Thank you.

21 Yes, sir?

22 PROSPECTIVE JUROR: The reason I wrote
23 at the bottom of the paper, is not because I
24 don't feel I'll be unfair. I just want to
25 say that a long, long time along, I used

1
2 drugs. I used marijuana. I don't know if
3 that's part of it. I just want to be as
4 honest as possible.

5 THE COURT: How long ago?

6 PROSPECTIVE JUROR: Eighteen years ago.
7 I was sixteen years old.

8 THE COURT: Were you ever arrested?

9 PROSPECTIVE JUROR: No. Just a few
10 times. I would like to admit that. Because
11 I don't know how that bears on the case. I
12 want to just be as honest as possible.

13 THE COURT: You used marijuana for
14 personal use?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: You never sold it to
17 anybody else?

18 PROSPECTIVE JUROR: No. Just for my
19 own stupidity.

20 THE COURT: That does not disqualify
21 you.

22 PROSPECTIVE JUROR: I just wanted to be
23 as honest as possible. This is the first
24 time I'm on a jury.

25 THE COURT: Will that affect your

1
2 ability to be fair?

3 PROSPECTIVE JUROR: No. I think I'll
4 be fair.

5 THE COURT: Any questions?

6 MR. WALSH: No. As long as you can be
7 fair.

8 PROSPECTIVE JUROR: I just wanted to
9 admit to it. It's kind of embarrassing.

10 THE COURT: No problem.

11 Yes, sir, Mr. Dougherty?

12 PROSPECTIVE JUROR: In the interest of
13 time and privacy, I prefer not to be
14 questioned. I'm a special agent, with
15 twenty years in law enforcement.

16 THE COURT: Including the D.A.?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: You may hear testimony, as
19 counsel indicated, about possible drugs use
20 of the victim, or drug dealing.

21 PROSPECTIVE JUROR: I believe I could
22 be impartial. I don't know if the other
23 officers of the Court would find me
24 credible.

25 THE COURT: If you feel you could be

1
2 fair, you're not disqualified by the fact
3 that you, yourself, were a D.A. intelligence
4 officer.

5 Let's go to the other step. You say
6 the fact that some of the -- the victim used
7 or sold drugs, would not affect your ability
8 to determine the case. This is not an issue
9 of a self-defense type.

10 PROSPECTIVE JUROR: No. In terms of, I
11 have taken many -- I have done many
12 interviews, interrogations. I have taken
13 depositions; some complaints. I could be
14 impartial, as far as evidence, as far as --

15 THE COURT: How about as far as police
16 officers?

17 PROSPECTIVE JUROR: As far as a
18 witness, though. I think that I probably
19 would have an above average ability to
20 determine falsehood or pick up something
21 that doesn't ring true.

22 THE COURT: That's not bad. But what
23 I'm asking you is, the fact that someone is
24 a law enforcement officer --

25 PROSPECTIVE JUROR: No. There's no --

1
2 THE COURT: You wouldn't pre-judge
3 because someone has law enforcement, they
4 were necessarily truthful? That's what I'm
5 asking.

6 PROSPECTIVE JUROR: I don't believe
7 that the glove was planted. But he did lie
8 on the stand. That's just the way it is.

9 THE COURT: You know there are officers
10 who lie, or who are mistaken.

11 PROSPECTIVE JUROR: I'm just saying, if
12 I'm going to be disqualified by virtue of
13 this, by either side, I would rather not be
14 questioned in open Court about my career.

15 THE COURT: You're not disqualified, so
16 far. What I'm going to ask the attorneys to
17 do, here at the Bench, is to examine you
18 about your career. Then they can ask benign
19 questions later on.

20 Mr. Walsh?

21 MR. WALSH: Witness to a crime, I would
22 imagine that has to do with your duties?

23 PROSPECTIVE JUROR: Yes.

24 MR. WALSH: The only question I have,
25 really, is what I asked everybody else:

1
2 Whether you feel a police officer is any
3 more to likely to be truthful than anyone
4 else; or less likely?

5 PROSPECTIVE JUROR: It's not about
6 that, as far as I'm concerned. It's about
7 listening to the testimony, and the
8 responsibility lies with you and the other
9 attorney to bring out whatever is brought
10 out. I'll listen to it.

11 THE COURT: This is just on his career,
12 counsel.

13 MR. BRETTSCHEIDER: I have a few
14 questions. You said that you have been
15 involved in interrogations. In this case,
16 there may be a possibility that a police
17 officer testified about the interrogation.
18 Could that interrogation or a statement that
19 a defendant made in this case, be falsified
20 by a police officer? Or do you think that
21 would ever happen?

22 PROSPECTIVE JUROR: I don't think it
23 would never happen. It has happened.
24 Things happen. People aren't given their
25 rights. I don't work in a state or local

1
2 system. I have been federal all my life.

3 MR. BRETTSCHEIDER: I have nothing
4 further.

5 THE COURT: Take your seat, sir.

6 (Whereupon the following took place
7 back within the hearing of the open
8 courtroom:)

9 THE COURT: Do any of you know any of
10 the prospective witnesses, anything about
11 the case; anything about the proceedings;
12 any participants?

13 Do any of you have any business pending
14 before the police department or the district
15 attorney's office?

16 Mrs. Schrifken, tell me about victim of
17 a crime.

18 PROSPECTIVE JUROR: Someone entered my
19 home during the day, through my front door.

20 THE COURT: Anyone apprehended?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Anything in that experience
23 that would affect you in this case?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Mr. Dougherty, no further

1
2 questions for you.

3 Mrs. Evlack, what was your occupation
4 prior to retirement?

5 PROSPECTIVE JUROR: Teaching;
6 elementary.

7 THE COURT: Tell me about victim of a
8 crime.

9 PROSPECTIVE JUROR: My husband's young
10 cousin was run down. His blood showed high
11 levels of alcohol.

12 THE COURT: Was the victim alive
13 afterwards?

14 PROSPECTIVE JUROR: He was killed.

15 THE COURT: That's a horrendous
16 incident. Can you be fair and impartial in
17 a case such as this?

18 PROSPECTIVE JUROR: I can try.

19 THE COURT: Mr. Horowitz, is there
20 anything you prefer to discuss privately at
21 the Bench?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Approach.

24 (Whereupon the following side bar
25 conference took place outside the hearing of

1
2 the open courtroom:)

3 THE COURT: Tell me about accused of a
4 crime; convicted of a crime.

5 PROSPECTIVE JUROR: I have a son who
6 was convicted of weapons possession. I was
7 convicted of felony, about six years ago, as
8 a white collar crime.

9 THE COURT: Federal conviction?

10 PROSPECTIVE JUROR: State.

11 THE COURT: Do you remember the nature
12 of the crime?

13 PROSPECTIVE JUROR: Scheme to defraud.

14 THE COURT: Was it here in Nassau
15 County?

16 PROSPECTIVE JUROR: No; it was Queens.

17 THE COURT: May I ask what your
18 sentence was?

19 PROSPECTIVE JUROR: I received five
20 years probation.

21 THE COURT: That probation is over now?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Do you have any feelings
24 about your on experience that would carry
25 over to this case?

1
2 PROSPECTIVE JUROR: Obviously.

3 THE COURT: I'm excusing you. Thank
4 you.

5 (Whereupon the following took place
6 back within the hearing of the open
7 courtroom:)

8 THE COURT: Mr. Matusio, was your wife
9 ever employed outside of the home?

10 PROSPECTIVE JUROR: She used to be a
11 manager of a bakery.

12 THE COURT: You indicated some problems
13 with the English language.

14 PROSPECTIVE JUROR: Well, so far, I
15 understand everything. Just when they use,
16 like old English, that's when I probably
17 don't know the word.

18 THE COURT: You mean, when I'm going to
19 be defining the law?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: If you don't understand
22 something, you just tell me. You write me a
23 note.

24 PROSPECTIVE JUROR: I will.

25 THE COURT: How long have you been in

1
2 the United States?

3 PROSPECTIVE JUROR: Fifteen years.

4 THE COURT: You speak very well.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: We'll start with victim of
7 a crime. Mrs. Low?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Go ahead.

10 PROSPECTIVE JUROR: I got mugged in the
11 street once.

12 THE COURT: Anyone apprehended?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Would that affect your
15 ability to be fair in this case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: You indicate that you have
18 a pet at home, which could be a problem in a
19 long overnight stay. I can't tell you even
20 if you would be overnight. I can tell you
21 in my fourteen years on the Bench, I have
22 never had a jury more than two days. That
23 doesn't mean it couldn't be more. Would you
24 be -- would you be able to make arrangements
25 for your pet? My concern is, you're not

1
2 going to sit in that deliberating room and
3 look at your watch and be saying, well, I
4 really am just going to vote to get this
5 over with, because I'm concerned with my
6 animal.

7 PROSPECTIVE JUROR: If it's too long --

8 THE COURT: What's too long?

9 PROSPECTIVE JUROR: Like a month.

10 THE COURT: Sequestered for a month?

11 That won't happen. Sometimes, I think that
12 the trial of the century has changed so much
13 all of our lives and expectations. It's
14 important to do real jury service.

15 You have to help me with the
16 pronunciation of your name.

17 PROSPECTIVE JUROR: Kedish.

18 THE COURT: Please tell me about victim
19 of a crime, and witness to a crime.

20 PROSPECTIVE JUROR: My car was
21 burglarized and a neighbor's car was
22 burglarized. I saw that happen.

23 THE COURT: Was anyone apprehended?

24 PROSPECTIVE JUROR: Yeah.

25 THE COURT: Did you have the

1
2 opportunity to testify at any proceeding or
3 a grand jury?

4 PROSPECTIVE JUROR: When the police
5 made the arrest, within minutes, neither me
6 or my neighbor could actually specify which
7 of the four broke into the car. We couldn't
8 tell.

9 THE COURT: Do you have any feelings
10 about that incident that would carry over to
11 this case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: You indicate you have
14 friends in law enforcement?

15 PROSPECTIVE JUROR: I have friends who
16 are court officers in Queens.

17 THE COURT: Anything in those
18 relationships that would prevent you from
19 being fair?

20 PROSPECTIVE JUROR: No.

21 THE COURT: You're considered -- you'll
22 consider a law enforcement individual the
23 same as anyone else. You don't decide in
24 advance to believe or disbelieve anyone?

25 PROSPECTIVE JUROR: Yes.

1
2 THE COURT: Mr. Cavares, has your wife
3 ever been employed outside the home?

4 PROSPECTIVE JUROR: Yes. Legal
5 secretary for Maritime law.

6 THE COURT: Not criminal law?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Tell me about victim of a
9 crime; witness to a crime.

10 PROSPECTIVE JUROR: I was robbed while
11 working at a store, armed robbery. A person
12 was never apprehended. I had my car
13 burglarized a couple of times. Two attempts
14 on two different cars. I also witnessed a
15 couple of incidents where I work. Nobody
16 was apprehended.

17 THE COURT: In the robbery of you in
18 the store, what -- was a handgun used.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: I want to make sure that
21 that experience won't, in any way, carry
22 over to you in this case. You understand,
23 of course, the allegation, is that there was
24 a handgun used in the killing of the victim
25 in this case?

1
2 PROSPECTIVE JUROR: Yes. I don't feel
3 it will have any affect on me. It's been a
4 long time.

5 THE COURT: How long ago was that?

6 PROSPECTIVE JUROR: That was the same
7 time as the other thing I told you about.
8 Long time ago.

9 THE COURT: Can you all assure me that
10 at the time deliberations begin, you will be
11 able to express your views, listen to the
12 views of your fellow jurors? Is there
13 anyone who can't do that?

14 Can you all accept the presumption of
15 innocence, burden of proof, as I have
16 explained it to you earlier, and will
17 explain to you in detail at the end of the
18 trial? Can you all accept that?

19 Can you all accept that the defendant
20 does not have to prove anything. That
21 Mr. Brettschneider, if he so desired, could
22 sit there silently throughout the trial.

23 Sympathy, thoughts of punishment, they
24 don't belong in the jury deliberation room.
25 Can you assure me you will put aside those

1
2 thoughts when you deliberate? The defendant
3 is not obligated to take the witness stand
4 of call witnesses, or explain his actions in
5 any way. You must not draw any inference
6 unfavorable to the defendant.

7 Are there any of you who will or might
8 allow the fact that the defendant does not
9 testify to influence you in your
10 deliberations?

11 Do any of you have any feelings about
12 the police that would affect your ability to
13 be fair and impartial in this case, that
14 would cause you to prejudge any police
15 officer or law enforcement officer?

16 Do you want to get started?

17 MR. WALSH: Sure.

18 Good afternoon. I'm going to make this
19 real brief. Earlier this morning, I had
20 mentioned what somebody had said yesterday,
21 about serving on jury duty. Basically, they
22 said they would have difficulty accepting
23 the responsibility in finding somebody
24 guilty or finding somebody not guilty in a
25 case like this.

1
2 It's very easy to sit, you know, in
3 your living room, talk to your family and
4 friends about serving on jury duty. Once
5 you step inside this courtroom, and you
6 know, you could hear when the Judge read the
7 charges, you hear the reaction in the back
8 of the courtroom. It's a lot different when
9 you walk in here and you have to sit here on
10 a jury and come to a verdict in a criminal
11 case. It's a difficult thing to come in
12 here and do.

13 Ms. Lipkin, do you share the feelings
14 of the person I quoted that said they would
15 have a difficult time with the
16 responsibility of finding somebody guilty or
17 not guilty?

18 PROSPECTIVE JUROR: I wouldn't have a
19 difficult time with the responsibility. The
20 only thing I would have a difficult time
21 with is that my responsibility to my
22 business.

23 MR. WALSH: Tell me about that.

24 PROSPECTIVE JUROR: I work for a
25 restaurant caterer. We do an enormous

1
2 business every holiday season. Thanksgiving
3 is an enormous holiday season for us. I'm
4 the only one who does what I do. If I had
5 to be here, and then go to my office after
6 work, I might be stressed. I might be
7 wondering how they're getting along.

8 MR. WALSH: That's the concern?

9 PROSPECTIVE JUROR: That's my concern.

10 MR. WALSH: Whether or not your
11 attention will be fully with us, or --

12 PROSPECTIVE JUROR: I know I'm going to
13 be worried about all the work that I
14 normally would do.

15 MR. WALSH: How about you, Ms. Flynn?
16 What I had indicated that that prospective
17 juror said about responsibility of finding
18 guilt or not guilty. Is there any problem?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Sir, how about you?

21 PROSPECTIVE JUROR: Not at all.

22 THE COURT: Ma'am?

23 PROSPECTIVE JUROR: No.

24 MR. WALSH: Ms. Lowe, how about you?

25 PROSPECTIVE JUROR: No.

1
2 MR. WALSH: Let me ask it this way: At
3 the end of the case, after you've heard all
4 the evidence, you may go back into the jury
5 room, if you're selected to be on the jury,
6 and evaluate the case.

7 I'm going to ask you to assume for the
8 purposes of what I'm about to ask you, that
9 you're convinced after this case is over,
10 beyond a reasonable doubt, that the
11 defendant committed the crimes that he's
12 charged with in the indictment. Do you have
13 any problem, or any difficulty, with walking
14 back out in this courtroom, standing up,
15 looking at the defendant, and finding him
16 guilty of second degree murder?

17 PROSPECTIVE JUROR: No. No problem.

18 MR. WALSH: If I don't prove my case
19 beyond a reasonable doubt, you'll walk back
20 in the courtroom, stand up and find him not
21 guilty. Any problem with that?

22 PROSPECTIVE JUROR: I have no problem.

23 MR. WALSH: Whatever your verdict is,
24 will be based on what the evidence is, and
25 nothing else?

1
2 PROSPECTIVE JUROR: Yes.

3 PROSPECTIVE JUROR: Second degree means
4 it's not capital.

5 THE COURT: This is not a capital case.

6 PROSPECTIVE JUROR: I have a problem
7 with capital punishment.

8 MR. WALSH: You don't have to worry
9 about that. Anybody else, the question I
10 asked about, basically, your verdict being
11 based on the evidence and nothing else.
12 Anybody feels any differently than the views
13 expressed by the other jurors? If I prove
14 my case beyond a reasonable doubt, you walk
15 back in the courtroom, look at the
16 defendant, find him guilty? I don't prove
17 my case, you do just the opposite: Walk in
18 here, find him not guilty. Whatever your
19 verdict is, it's based on the evidence and
20 whether it's proven to you beyond a
21 reasonable doubt. Everybody feels the same
22 way? Okay.

23 What we said about police officer
24 testimony. Anybody here have reason to
25 believe a police officer is any more or less

1
2 likely to be truthful? Does it matter to
3 any of you ladies and gentlemen, as far as
4 taking this case as seriously as you would
5 any other, who the victim was? Whether you
6 approve of his lifestyle, whether he's alive
7 or not.

8 Can everybody give this case the same
9 attention they would for anybody else?

10 Before I sit down, any reason at all,
11 any of you feel that you couldn't be fair
12 and impartial in this case, to either side?
13 Thank you.

14 THE COURT: Mr. Brettschneider.

15 MR. BRETTSCSCHNEIDER: I just want to
16 make something clear. You mentioned the
17 fact that this is not a capital punishment
18 case. That you feel somewhat relieved. Do
19 you still take this, you know, extremely
20 seriously? I mean, certainly --

21 PROSPECTIVE JUROR: My problem is that
22 in -- I just don't believe in capital
23 punishment. I would have a problem if this
24 were a first degree murder case.

25 MR. BRETTSCSCHNEIDER: You would still

1
2 deal with it as serious --

3 PROSPECTIVE JUROR: Absolutely.

4 MR. BRETTSCHEIDER: Understand the
5 consequences.

6 PROSPECTIVE JUROR: Absolutely. And
7 probably because there is not a capital
8 punishment involved, probably be more open.
9 I'll be able to listen.

10 MR. BRETTSCHEIDER: Mr. Matteos, you
11 drive a bus. Are you involved with school
12 children?

13 PROSPECTIVE JUROR: Yes.

14 MR. BRETTSCHEIDER: There must be
15 occasions where kids have problems on the
16 bus. There may have been an occasion, where
17 they said, this is what happened, and you
18 hear two sides of a story. In this or any
19 criminal case, the defendant is not required
20 to put on his side of the story. Would that
21 be a problem to you?

22 PROSPECTIVE JUROR: No. What I do is
23 just listen both sides. From there, I take
24 my decision.

25 MR. BRETTSCHEIDER: Well, you may not

1
2 hear both sides. The only side that you may
3 hear with regard to my questioning, is the
4 only way you can consider the two sides, is,
5 I'm getting up on behalf of the defendant
6 and cross-examining witnesses. Basically,
7 I'm trying to elicit information from a
8 witness that the district attorney does not
9 want to elicit.

10 The fact that Mr. Jackson doesn't
11 testify in this case, is that going to have
12 an influence on you, as to whether you can
13 come to a decision for finding him not
14 guilty.

15 PROSPECTIVE JUROR: I don't think so.
16 Because what I said before. I listen when
17 you -- I listen to you, and from there,
18 compare what he has. I take my decision
19 from there, without listening to him.

20 MR. BRETTSCHEIDER: Mr. Dedash, I know
21 you're self-employed. I think somebody else
22 mentioned the possibility of being out of
23 work for a period of time. How would that
24 influence you, if you had to be on a jury
25 until, let's say, the middle of December.

1
2 Would that be a hardship?

3 PROSPECTIVE JUROR: The way it was
4 described, no.

5 MR. BRETTSCHEIDER: Again, my question
6 is, would you need to hear two sides of the
7 story, in this case?

8 PROSPECTIVE JUROR: Would I need to
9 hear two sides? I understand that it's the
10 prosecutor's job to prove his case. If you
11 wanted to, you wouldn't have to really call
12 anybody.

13 MR. BRETTSCHEIDER: That's the law.

14 PROSPECTIVE JUROR: I understand the
15 law.

16 MR. BRETTSCHEIDER: Do you have a
17 problem with that?

18 PROSPECTIVE JUROR: None at all.

19 MR. BRETTSCHEIDER: Is this going to
20 be a situation where, six weeks from now,
21 you're sitting in the jury room, you're
22 saying, I wish I could have heard from the
23 defendant. If I heard from the defendant, I
24 would feel much better?

25 PROSPECTIVE JUROR: Well, let me answer

1
2 that this way: If you advise him not to
3 take the stand -- and that's your call --
4 and you're comfortable with it, obviously,
5 something in what you heard, we heard,
6 convinced you that you didn't have to do
7 that.

8 MR. BRETTSCHEIDER: Same question to
9 you, sir.

10 PROSPECTIVE JUROR: I would feel that
11 if he testified, it would probably -- I
12 would feel it would be better to hear from
13 him, also. If he doesn't -- if you feel he
14 doesn't have to testify, the prosecution
15 still has to prove their case. Obviously,
16 if they don't prove their case, he doesn't
17 have to testify.

18 But yeah, it's always good to hear both
19 sides of a story. Somewhere in the middle,
20 the truth lies. That's my belief.

21 MR. BRETTSCHEIDER: Based on what
22 you're saying to me, is that going to be an
23 impediment --

24 PROSPECTIVE JUROR: No. I'm expressing
25 my feelings. I don't feel it's going to be

1
2 an impediment. I would like to think it
3 won't.

4 MR. BRETTSCHEIDER: Thank you.

5 PROSPECTIVE JUROR: If the prosecution
6 proves his case beyond a reasonable doubt,
7 and I am satisfied with the prosecution's
8 case, that's one thing. If the prosecution
9 fails to do it completely, a reasonable
10 doubt, of whatever that is, and there is
11 questions, wouldn't hearing from the
12 defendant help make a juror come to a
13 decision?

14 MR. BRETTSCHEIDER: Well, I understand
15 what you're saying. The words are not
16 guilty or guilty. It's not innocent.

17 PROSPECTIVE JUROR: I understand. But
18 it's not guilty beyond a reasonable doubt.

19 MR. BRETTSCHEIDER: It's guilty --
20 they have to prove guilt beyond a reasonable
21 doubt. It doesn't rise to that level. The
22 Judge is going to instruct you that you
23 would have to find the defendant not guilty.
24 That's why there are certain situations in
25 which we can't prove our innocence.

1
2 PROSPECTIVE JUROR: I see.

3 MR. BRETTSCHEIDER: The standard of
4 law is, not guilty or guilty.

5 PROSPECTIVE JUROR: I see.

6 MR. BRETTSCHEIDER: Does anybody have
7 a problem with that concept? The fact is,
8 there may be a situation in which you may
9 have questions. There may not be answers.
10 A lot of times, you will hear the term in
11 Court, that a trial is looking for the
12 truth. Sometimes you may not find the
13 truth.

14 The fact that you may not hear
15 everything that you want to hear, is that
16 going to be an influence upon you?

17 PROSPECTIVE JUROR: No.

18 MR. BRETTSCHEIDER: You don't hear
19 from a defendant, you don't hear witnesses
20 on his behalf; you don't know where he was
21 at the time the crime was committed. Is
22 that going to have an impact on you?

23 PROSPECTIVE JUROR: No. Because it's
24 not the defendant's job to defend. It's the
25 prosecutor's job to prosecute. The

1
2 prosecutor has to indicate beyond a
3 reasonable doubt that the person is guilty
4 of the crime. If he can't do that, it
5 doesn't matter what the defendant says.

6 MR. BRETTSCHEIDER: Thank you.
7 Ms. Lowe, the fact that this is a murder
8 case. Certainly, when you came for jury
9 duty, you probably didn't realize you were
10 going to sit on a case such as this. How do
11 you feel about that?

12 PROSPECTIVE JUROR: I feel that I have
13 to hear both lawyers' facts about the whole
14 case. Then I could determine --

15 MR. BRETTSCHEIDER: Do you have any
16 problems sitting on a case where, you know,
17 you don't have to explain to anybody the
18 importance of this situation. You to feel
19 comfortable to the point you feel you could
20 be a good juror?

21 PROSPECTIVE JUROR: Yes.

22 MR. BRETTSCHEIDER: Let me ask you
23 about your work. Is this going to have an
24 impact on you sitting here for six weeks,
25 sir?

PROSPECTIVE JUROR: No.

MR. BRETTSCHEIDER: I have nothing further.

THE COURT: When you're ready, please approach.

(Whereupon the following side bar conference took place outside the hearing of the open courtroom:)

THE COURT: Counsel, we have eight jurors. We're doing the first four. Challenge for cause?

MR. WALSH: Number three. She indicated that she would have difficulty concentrating on the case.

MR. BRETTSCHEIDER: Consent.

THE COURT: Only because it's consent. Any others?

MR. WALSH: No.

THE COURT: Cause, defendant?

MR. BRETTSCHEIDER: No.

THE COURT: Peremptory, People?

MR. WALSH: Number seven and number nine.

THE COURT: There is one remaining in

1
2 that group.

3 MR. BRETTSCHEIDER: I challenge him.

4 THE COURT: Now, we're moving to the
5 next four. That's everybody else in the
6 box. For cause, People?

7 MR. WALSH: No.

8 MR. BRETTSCHEIDER: No.

9 THE COURT: Peremptory, People?

10 MR. WALSH: Ms. Lowe.

11 THE COURT: Defendant?

12 MR. BRETTSCHEIDER: Number fifteen.

13 THE COURT: All right. That gives us
14 two more jurors. That makes a total of ten.

15 Now, before you leave the Bench, I'm
16 sending for another panel. We'll tell
17 everyone not to be back until 2:15.

18 However, what I want to ask is that, if
19 you want to consent to have the ten come
20 back on Tuesday, rather than --.

21 MR. WALSH: I think that's a good idea.

22 MR. BRETTSCHEIDER: So do I. I
23 consent.

24 THE COURT: All right. Fine.

25 (Whereupon the following took place

1
2 back within the hearing of the open
3 courtroom:)

4 THE CLERK: The following two please
5 remain seated. Karen Shiplano and Charles
6 Kedish.

7 Everyone else is excused with the
8 thanks of the Court.

9 (Whereupon the remaining prospective
10 jurors were excused)

11 THE CLERK: Are the he remaining jurors
12 satisfactory to the People?

13 MR. WALSH: Yes.

14 THE CLERK: And to the defendant?

15 MR. BRETTSCHEIDER: Yes.

16 THE COURT: All right. Please swear
17 them.

18 (Whereupon Jurors Number nine and ten
19 were duly sworn by the Clerk of the Court)

20 THE COURT: All right. I have good
21 news, and I have bad news. The bad news is
22 that we don't have a completed jury. We
23 still have two more jurors and three
24 alternates to select.

25 I have to send for another panel.

1
2 you, that all of the participants have
3 agreed that you don't have to sit here this
4 afternoon while we keep going. Basically,
5 now, you're going to be excused until
6 Tuesday morning.

7 Remember, Friday, we're not working on
8 the case. Monday is Veteran's Day. We will
9 resume again on Tuesday at eleven.

10 Do not discuss the case amongst
11 yourselves, are or with others.

12 Do not read or listen to any accounts
13 or discussions of the case reported by
14 newspapers or other news media. Do not
15 visit or view the premises, or any place
16 where the offenses charged were allegedly
17 committed, or any other promise premises or
18 place involved in the case.

19 Promptly report to the Court any
20 incident involving any attempt by any person
21 to influence any member of the jury, or to
22 discuss the case.

23 Do not form any opinions. Keep an open
24 mind. Tuesday morning, eleven o'clock.

25 (Whereupon there was a luncheon recess)

A F T E R N O O N S E S S I O N

THE CLERK: Case on trial, People vs. Joseph Jackson.

THE COURT: Unfortunately, central jury was only able to get us thirty jurors, who are now outside.

Do you have a suggestion, Mr. Brettschneider?

MR. BRETTSCHEIDER: Yes. With the consent of my client, I think that to alleviate all kinds of time constraints and not waste the Court's time, why don't we ask them if they would be interested on serving on a trial that may end some time in mid-December; rather than going into the Court's instructions at the beginning, or even giving them -- I guess you could give them bare bones about what the case is about.

Other than that, I think that really is a pertinent question, with regard to whether they're willing to serve.

THE COURT: Mr. Walsh, are you in

1
2 agreement?

3 MR. WALSH: Yes.

4 THE COURT: We'll do that. We might
5 not keep very many.

6 Bring them in.

7 (Whereupon the jury panel was brought
8 into the courtroom)

9 THE COURT: Good afternoon, ladies and
10 gentlemen. Welcome to County Court. My
11 name is Judge Abbey Boklan and I will be the
12 presiding judge at this trial.

13 First of all, I wish to apologize to
14 you for having to stand in the hall.
15 Unfortunately, we had another matter that we
16 had to handle before we continued with this
17 trial.

18 We are in the middle of jury selection
19 right now, ladies and gentlemen. The reason
20 you don't see any jurors here is, that we
21 have excused them for the afternoon, while
22 we try to conclude our actual jury
23 selection. We have ten sworn jurors. We're
24 going to be picking two more and three
25 alternates.

1
2 I would like to introduce to you,
3 ladies and gentlemen, the participants to
4 this proceeding, and just give you a very
5 little information at this stage about the
6 nature of the charges.

7 The nature of the charges are murder in
8 the second degree, intimidating a witness in
9 the first degree; and hindering prosecution
10 in the second degree.

11 I would like to introduce Mr. Michael
12 Walsh, assistant district attorney, who will
13 present the case on behalf of Denis Dillon,
14 the District Attorney of this county.

15 I would like to introduce to you,
16 Mr. Scott Brettschneider, who is an attorney
17 who will be representing Mr. Joseph Jackson,
18 who is referred to as the defendant in this
19 case. He's sitting next to
20 Mr. Brettschneider.

21 Before going through my other part of
22 my introduction to you, I wanted to tell you
23 a little bit about scheduling in this trial,
24 to ensure that all of you are willing to
25 participate here with us. It's a little

1
2 unusual procedure. We find this, in the
3 end, does save some time.

4 In November, of course, as you know,
5 there are various holidays. We have
6 Veterans Day, which is Monday. We're closed
7 then, and we're closed Thanksgiving Day. We
8 will not work on this case on any Friday in
9 November.

10 Even if you exclude all those dates and
11 the nature of the charges, the attorneys
12 have assured me we should be finished by
13 mid-December.

14 If there are any of you who cannot sit
15 on this -- I assure you it will be a very
16 interesting case with two fine attorneys --
17 if there are any of you who cannot sit on
18 this case, please raise your hands, now.

19 Well, how many are willing to stay with
20 us and sit with us? Five people.
21 Counselors, can I see you informally at the
22 Bench.

23 (Whereupon the following side bar
24 conference took place outside the hearing of
25 the open courtroom:)

1
2 THE COURT: Only five are willing. Are
3 you sure you don't want me to go through
4 excuses? I might be able to salvage some.

5 MR. WALSH: It's fine with me. If we
6 get a couple of more, it might help us.
7 We're only going to work with this group
8 this afternoon.

9 THE COURT: I'm going to take excuses.

10 (Whereupon the following took place
11 back within the hearing of the open
12 courtroom:)

13 THE COURT: The five of you who raised
14 your hands, we're going to separate you for
15 a minute. We thank all of you. But because
16 so many of the others of you have raised
17 your hand, unfortunately, I'm going to go
18 through my whole portion of my introduction.
19 I'll hear your excuses. I won't just
20 release you. So the five volunteers, if you
21 can just step over here.

22 As you heard, you're going to be called
23 upon to determine whether or not the
24 evidence which you shall hear and see in
25 this case establishes the defendant's guilt

of the charges beyond a reasonable doubt.

In order to do this, you will have to evaluate all of the evidence at the end of the trial, to determine whether what you have heard from the witnesses and seen as exhibit is true, and what it all means. This is called finding the facts. That will be your function alone. I will find no facts in this trial.

Your ultimate decision is called a verdict. Your verdict will be either guilty or not guilty.

An attorney presents the evidence, usually by calling witnesses. Only you can decide what really happened. And the verdict as to each of the counts remains your decision alone. As Judge, I will make no determination of whether the defendant is guilty or not guilty.

My role at trial is to ensure that you reach your verdict in accordance with the law. I will explain to you what the law is, as to all the issues at this trial. I may have to rule on questions concerning the

conduct of the trial. Those rulings have nothing to do with whether the defendant is guilty or not guilty.

I may also rule on questions concerning what evidence you may consider, and for what purpose.

When I make a ruling concerning whether you may hear some testimony or see some exhibits which is offered as evidence, I will be ruling on whether or not you are permitted to hear it or see it, as a matter of law.

Likewise, if I instruct you to disregard something you might have heard, I will do so because that is the law. None of my rulings should be taken by you as any indication at all of whether you should believe all or part of what is offered as evidence; or that the defendant is guilty or not guilty. That is solely your job to determine.

But you must accept the law as I give it to you, if the People and the defendant are to have a fair trial to which they are

entitled.

The fact that this action is brought in the name of the People, or the evidence is presented by a public official, does not, in any way, indicate that the public wants a specific verdict. The People in this state are served by whatever verdict is justified by the evidence.

You may hear reference to the fact that the defendant is indicted by a grand jury. This, too, is not and must not be taken as any evidence of guilt.

As a trial jury, you must consider an indictment as simply a piece of paper by which a defendant is accused of a crime. Only you as members of the trial jury, can determine guilt, and the defendant is presumed to be innocent, unless and until you do find him guilty.

Serving on a jury, ladies and gentlemen, is a vital function for citizens under our system of laws. It is also a very great responsibility; that is, to accord the defendant and the People a fair trial.

1
2 In order to do so, you must be free
3 from any preconceived notions or any
4 sympathies or prejudices that might prevent
5 you from returning a fair and just verdict
6 based upon the evidence or the lack of
7 evidence. To help to ensure this, our first
8 order of business is to conduct an
9 examination of the prospective jurors.

10 I will ask questions of you, and after
11 I am finished, the attorneys for both
12 parties will ask questions, as well. The
13 purpose of the questions, is not to
14 embarrass you, or to discover any personal
15 details about your lives. It is simply to
16 determine whether you are qualified to sit
17 in this particular case.

18 Some of you may be excused because you
19 are not qualified to sit as a matter of law.
20 That is called excused for cause.

21 Others may be excused peremptorily,
22 which means by one of the attorneys, without
23 any cause being given. Being excused is not
24 a reflection on you either as a citizen or a
25 person. It is simply a determination under

1
2 the rules by one or more of the parties or
3 by me, that you are not to sit in this
4 particular case.

5 I am now going to hear the reasons that
6 you feel that you cannot sit on this case.
7 I regret the inconvenience. I understand
8 that this is a long trial.

9 However, we are being very realistic in
10 telling you the time frame. We are trying
11 to be as accurate as possible. Please do
12 not seek to avoid jury service because it is
13 inconvenient. I regret the inconvenience.
14 If you're not willing to serve, we cannot
15 try cases, and we certainly cannot try the
16 important cases that take more than a few
17 days.

18 If you all feel the same way now, I
19 will hear you on an individual basis. Do I
20 have any further volunteers.

21 (Whereupon the following side bar
22 conference took place outside the hearing of
23 the open courtroom:)

24 THE COURT: Yes? We need your name.

25 PROSPECTIVE JUROR: As to the -- I'm

1
2 the only would be working in my household.
3 My wife does not work. She's got a chronic
4 bad back. I do the household work. I do
5 not get paid --

6 THE COURT: All right. You're excused.
7 Next.

8 PROSPECTIVE JUROR: M-O-L-Z-O-N. I
9 have my own business with four people. This
10 is going to cause me a lot of harm.

11 THE COURT: What kind of business?

12 PROSPECTIVE JUROR: Import customs
13 brokerage. There's only four people in the
14 company.

15 THE COURT: Do you have any partners?

16 PROSPECTIVE JUROR: Yes. I have one.
17 I also have panic attacks.

18 THE COURT: You're excused.

19 Next?

20 PROSPECTIVE JUROR: Last name,
21 M-A-R-R-Y. Currently, I'm six months
22 pregnant, carrying twins. My doctors, by
23 seven months, he doesn't want me to work.

24 THE COURT: Good luck. You're excused.

25 PROSPECTIVE JUROR: Debbie Grillo.

1
2 About two weeks ago, we found out my
3 mother-in-law was operated on for cancer.
4 We have two vacations scheduled -- she lives
5 in Florida -- to visit with her for
6 Thanksgiving and Christmas. And we have a
7 cruise scheduled in January.

8 THE COURT: January, you don't have to
9 worry about.

10 PROSPECTIVE JUROR: We have already
11 purchased tickets for November 28th through
12 December 3rd. And 18th through -- 21st
13 through 31st of December.

14 THE COURT: We can't shut down for two
15 days in December. You're excused.

16 PROSPECTIVE JUROR: S-V-I-R-I-D-A. I
17 teach school and we have parent conferences
18 twice a year. My appointments have been
19 already made.

20 THE COURT: I keep my teachers. I do
21 not excuse teachers. You get paid.
22 Unfortunately, the parents will have to be
23 compensated by the fact that this is a
24 wonderful learning experience for you.
25 You're not excused.

1
2 PROSPECTIVE JUROR: C-E-T-T-A. I'm
3 leaving on my honeymoon Thursday.

4 THE COURT: Have a wonderful time.

5 PROSPECTIVE JUROR: Richter. Your
6 husband treated my son for hemophilia.
7 Steven still has hemophilia. He needs me
8 for his --

9 THE COURT: How old is he?

10 PROSPECTIVE JUROR: Twenty-seven.

11 THE COURT: He can't give himself --

12 PROSPECTIVE JUROR: Yes, he does. At
13 times, his elbow presents -- I still have to
14 go with him, very, very often.

15 THE COURT: You know, you would be
16 going home every day at four-thirty.

17 PROSPECTIVE JUROR: I can't be away. I
18 can't leave Marilyn alone with him. It
19 hasn't changed since he's six months old.

20 THE COURT: Is he well, otherwise?

21 PROSPECTIVE JUROR: Yeah. He's an
22 attorney, as a matter of fact.

23 THE COURT: I think he would want you
24 to serve.

25 PROSPECTIVE JUROR: It's a must

1
2 situation.

3 THE COURT: You're excused. Next
4 person.

5 PROSPECTIVE JUROR: Two things.

6 THE COURT: Your name?

7 PROSPECTIVE JUROR: G-O-R-D-O-N. I got
8 a prostate problem. I can't sit for maybe
9 two hours, and I have to go to the bathroom.

10 THE COURT: No problem. Next.

11 PROSPECTIVE JUROR: Tomorrow, I'm
12 leaving for Florida, and come back the
13 beginning of the year.

14 THE COURT: Have a good trip.

15 PROSPECTIVE JUROR: Palladino.
16 P-A-L-L-A D I N O. I have a four year old
17 daughter at home. It's hard for me to stay
18 for such a long time. I also have a job.

19 THE COURT: What kind of a job?

20 PROSPECTIVE JUROR: I work for a
21 computer consulting firm.

22 THE COURT: Will they pay you while
23 you're here?

24 PROSPECTIVE JUROR: Yeah. But I don't
25 know how long they'll pay me for.

1
2 THE COURT: If you were working, you
3 wouldn't be home with your child, anyway.
4 If they're paying you, you might as well be
5 with us.

6 Not excused. Next.

7 PROSPECTIVE JUROR: D-U-N-N. I teach
8 theology to high school students in a
9 private high school. They couldn't find a
10 sub for that subject matter for this period
11 of time.

12 THE COURT: I don't excuse my teachers.
13 I have to hold them, because they get paid.

14 PROSPECTIVE JUROR: But it's a private
15 high school. Theology is the subject. They
16 couldn't find a substitute teacher.

17 THE COURT: They'll have to, for a few
18 weeks, do without. You get paid?

19 PROSPECTIVE JUROR: Yeah. I'm not
20 worried about that.

21 THE COURT: Not excused. Next.

22 PROSPECTIVE JUROR: Helen Glenby. I am
23 an alcohol counselor. As of November 15th,
24 I'm opening my own facility. I have people
25 in treatment that can't wait that long.

THE COURT: There's nobody else?

PROSPECTIVE JUROR: I'm going to be the only counselor.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: I have three kids. I'm in the middle of divorce. I have nobody to take care of my kids.

THE COURT: Excused. Next.

PROSPECTIVE JUROR: S-I-C-I-N-S-K-I. I have vacation plans for the week of Thanksgiving.

THE COURT: What day?

PROSPECTIVE JUROR: I'm leaving the Monday before and I'll be back the Friday after Thanksgiving.

THE COURT: Excused. Next.

PROSPECTIVE JUROR: I'm a single divorced parent --

THE COURT: You didn't give your name.

PROSPECTIVE JUROR: Striker. I work at Long Island Lighting Company. I'm in fear of losing my job. There's no way I can make up that work.

THE COURT: There's no way LILCO can

1
2 fire you for this.

3 PROSPECTIVE JUROR: But I would have to
4 work at night to make up all my work, and
5 how would I do it?

6 THE COURT: Wait a minute. LILCO has
7 other employees. They will be able to take
8 care of it.

9 PROSPECTIVE JUROR: Right now, I have
10 to work at night for the two days I've been
11 here.

12 THE COURT: What kind of work do you
13 do?

14 PROSPECTIVE JUROR: I'm an internal
15 auditor.

16 THE COURT: They don't have anybody
17 else?

18 PROSPECTIVE JUROR: No. My work is my
19 work.

20 THE COURT: They have to make
21 arrangements for you. The child care is
22 another story. Do you have anyone to stay
23 with them at night.

24 PROSPECTIVE JUROR: No. That's the
25 other thing. I can't stay overnight.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: P-T. I own a small garden center and landscaping business. I am the sole proprietor. I have people working for me on a day-to-day basis. I could never put in three or four weeks. My business would fall apart.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: F-I-L-A-R-D-O. My husband is scheduled to go in on the 13th, to Sloan Kettering. Depending on the tests, he may have to have an operation.

THE COURT: You're excused. I hope he feels better. Next.

PROSPECTIVE JUROR: Navetta.
N-A-V-E-T-T A. It's very hard for me to make decisions. My ex-sister-in-law was convicted of a crime. It would be hard for me to make a decision.

THE COURT: Excused. Next.

PROSPECTIVE JUROR: C-E-R-A-M-I. I have two elderly parents in their eighties. My mother has cancer. I take her for chemotherapy.

1
2 THE COURT: No one else can take her?
3 They have no service from the hospital?

4 PROSPECTIVE JUROR: No.

5 THE COURT: You're excused. Next.

6 PROSPECTIVE JUROR: My name is Robert
7 Schneider. I'm retired from the New York
8 City Fire Department. I have a heart
9 disability. I don't think I could stand
10 this many days. I have high blood pressure.

11 THE COURT: You mean, the stress would
12 be too much, physically?

13 PROSPECTIVE JUROR: I think so.

14 THE COURT: You're excused. Next.

15 PROSPECTIVE JUROR: B-A-S-S-O. Years
16 ago, I was involved in a crime and indicted
17 on it. I don't think I could fairly sit.

18 THE COURT: Excused. Next.

19 PROSPECTIVE JUROR: I'm already
20 nervous. I have already convicted him.

21 THE COURT: You're excused. Next.

22 PROSPECTIVE JUROR: Gillman.
23 G-I-L-L-M-A N. I have a family member who
24 was shot and killed, last year.

25 THE COURT: You couldn't be fair?

1
2 PROSPECTIVE JUROR: I don't think I
3 could.

4 THE COURT: You're excused. Next.

5 PROSPECTIVE JUROR: I have two
6 reasons --

7 THE COURT: Can we have your last name.

8 PROSPECTIVE JUROR: M-E-L-L-E-N. I
9 have two reasons I would find it very
10 difficult to serve. One is that I was
11 accosted by a black man when I was in my
12 twenties.

13 I also have a son that we have just
14 gone through criminal charges. He has a
15 Y.O. status. For the past three years,
16 we've been in and out of the criminal court
17 system.

18 THE COURT: You don't think you could
19 be fair?

20 PROSPECTIVE JUROR: I think it's just
21 too stressful.

22 THE COURT: You're excused. Next.

23 PROSPECTIVE JUROR: Kathryn Walsh. My
24 son is a Nassau County police officer. My
25 husband is a retired --

1
2 THE COURT: Danny Walsh?

3 PROSPECTIVE JUROR: Denny. My son --
4 my husband is a retired police detective. I
5 was a victim of a crime, while -- my wallet
6 was taken in the night and my face was
7 knifed.

8 THE COURT: Being a victim of a crime
9 or related to a police officer, doesn't
10 excuse you. You have to tell me whether you
11 could be fair.

12 PROSPECTIVE JUROR: No.

13 THE COURT: Then you're excused. Next.

14 PROSPECTIVE JUROR: D-O-M, G-A-L-A.
15 I'm leaving on the 16th to go out to my
16 daughter in Nevada. I won't be back until
17 March.

18 THE COURT: Have a good trip.

19 PROSPECTIVE JUROR: Oh, thank you.

20 THE COURT: Off the record.

21 (Whereupon there was a discussion off
22 the record)

23 THE COURT: All right.

24 (Whereupon the following took place
25 back within the hearing of the open

courtroom:)

THE COURT: At this point, I'll ask the clerk to swear all the prospective jurors, to answer truthfully.

(Whereupon the entire jury panel was sworn)

THE COURT: Fill the box.

(Whereupon the jury box was filled)

THE COURT: All the parties have been identified to you. Do any of you know the participant to this proceeding?

Among the witnesses who may be called, are the following -- and I caution you that my mentioning the name imposes no burden on either side to call that person as a witness: Detective Abbondandolo, Homicide Squad. These are all Nassau County Police Department. Detective Robert Dempsey, Homicide Squad. Detective Jerl Mullen, Homicide Squad. Detective Peter Donato, Homicide Squad. Police officer Richard Paulik, Freeport Police Department. Police officer Michael P-O-M-O-R-I-C-O, Freeport Police Department. Detective Joseph Marino,

Crime Scene Search Unit, Nassau County.

Detective Nicholas Mattia, M-A-T-T-I-A of the Scientific Investigation Bureau.

Mr. Michael Herts. He's a retired detective

from the First Squad. Detective Brian

Parpan, Homicide Squad. Detective Frank

Allaire, A-L-L-A-I-R-E, First Squad.

Detective William Tweedie, First Squad.

Detective Edward Heggerty, Freeport Police

Department. Mr. William Walsh, Assistant

District Attorney, Nassau County District

Attorney's Office. Michael DeMartino, MD,

Deputy Medical Examiner, Nassau County

Medical Examiner's Office. Mr. Christopher

M. Jordan, Official Court Reporter.

Ms. Isabel Valese. Miss Skwanitra

Witherspoon. Mr. Peddie Jenkins.

Mr. Tyrone Isaac and Mr. Roy Isaac.

Do any of you know the prospective witnesses to this action?

I have told you the nature of the charges, the alleged date of occurrence. That's the 20th day of March, 1994. The alleged victim is Steven Jason. It

1
2 alleges -- the indictment, alleges the use
3 of a handgun. Does this case mean anything
4 to anyone? Does anyone know anything about
5 it, other than what I have told you?

6 Mrs. Weber, your husband's occupation
7 prior to retirement?

8 PROSPECTIVE JUROR: He was a manager in
9 a supermarket.

10 THE COURT: Ms. Landon, tell me about
11 victim of a crime.

12 PROSPECTIVE JUROR: I was mugged.

13 THE COURT: How long ago?

14 PROSPECTIVE JUROR: 1983 or '84.

15 THE COURT: Anyone apprehended?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Anything in that experience
18 that would affect you in this case?

19 PROSPECTIVE JUROR: I don't think so.

20 THE COURT: I see that you are a
21 registered nurse, yourself. We do have the
22 medical examiner who may be testifying. I
23 want to make sure you won't become the
24 medical expert on the jury. Can you assure
25 me you won't?

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PROSPECTIVE JUROR: I assure you.

THE COURT: Mrs. Martin, what type of counselor are you?

PROSPECTIVE JUROR: Psychiatric.

THE COURT: Before your divorce, was your husband employed outside the home?

PROSPECTIVE JUROR: No.

THE COURT: Is there anything you prefer to discuss privately?

PROSPECTIVE JUROR: Yes.

THE COURT: Please approach.

(Whereupon the following side bar conference took place outside the hearing of the open courtroom:)

THE COURT: Tell us about accused of a crime, convicted of a crime.

PROSPECTIVE JUROR: It was my ex-husband.

THE COURT: What was the crime?

PROSPECTIVE JUROR: Robbery.

THE COURT: He was convicted?

PROSPECTIVE JUROR: Yes.

THE COURT: Was that in Nassau County?

PROSPECTIVE JUROR: It was in Suffolk,

1
2 in 1976.

3 THE COURT: Did he go to jail?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: For how long?

6 PROSPECTIVE JUROR: Zip-five.

7 THE COURT: Are you close at all to
8 your ex-husband?

9 PROSPECTIVE JUROR: Just in contact
10 with the daughter.

11 THE COURT: Do you have any feelings
12 about what happened to him, that would
13 affect your ability to be fair in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: You don't blame the police
16 department or the district attorney?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Any questions?

19 MR. WALSH: Do you feel he was treated
20 fairly by the police and by whoever
21 prosecuted him?

22 PROSPECTIVE JUROR: I think I'm lucky.

23 MR. BRETTSCHEIDER: No questions.

24 (Whereupon the following took place
25 back within the hearing of the open

1
2 courtroom:)

3 THE COURT: Mrs. Benz, your occupation
4 prior to retirement?

5 PROSPECTIVE JUROR: A receptionist for
6 a legal firm.

7 THE COURT: Did they practice in the
8 field of criminal law?

9 PROSPECTIVE JUROR: Some. Well, they
10 were of counsel to us. It wasn't actually
11 our firm.

12 THE COURT: Anything that you may have
13 learned in the course of your occupation
14 that would carry over to this case?

15 PROSPECTIVE JUROR: I would say so.

16 THE COURT: Let me be more specific.
17 Will you be able to take the law as I give
18 it to you, and put aside any legal matters,
19 or any law you might have learned in your
20 job?

21 PROSPECTIVE JUROR: Yes, I would.

22 THE COURT: Your husband's occupation
23 prior to retirement?

24 PROSPECTIVE JUROR: Hardware buyer.

25 THE COURT: Is there anything you

1
2 prefer to discuss privately?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Please approach.

5 (Whereupon the following side bar
6 conference took place outside the hearing of
7 the open courtroom:)

8 PROSPECTIVE JUROR: It was a son-in-law
9 who was convicted of a felony, and served a
10 prison term.

11 THE COURT: What felony?

12 PROSPECTIVE JUROR: Snatched a purse.

13 THE COURT: Was anyone hurt?

14 PROSPECTIVE JUROR: There was some
15 minor injury; nothing serious.

16 THE COURT: Was that here in Nassau
17 County?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: What was the result of
20 that? Was there a trial?

21 PROSPECTIVE JUROR: It was a plea
22 bargain.

23 THE COURT: Did he go to jail?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Anything in that, that

1
2 would carry over to this case?

3 PROSPECTIVE JUROR: I just came and I
4 volunteered only -- I came to you, because
5 my husband was on a jury duty service and
6 was disqualified because of that, by one of
7 the attorneys.

8 THE COURT: Well, I don't know what's
9 going to happen as far as the attorneys.
10 Let's talk about whether you can be fair.

11 PROSPECTIVE JUROR: I volunteered. I
12 hope to be. I'm not certain, in all
13 aspects.

14 THE COURT: What aspects are you not
15 certain?

16 PROSPECTIVE JUROR: I'm concerned
17 whether anything that happened to this boy
18 might reflect on my feelings. I don't know
19 yet, until I hear the case.

20 THE COURT: Once you hear the case,
21 it's too late. You have to tell us now if
22 you're going to be affected by the fact that
23 you had a son who was in trouble and was
24 prosecuted and went to jail.

25 PROSPECTIVE JUROR: I better not serve.

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2 THE COURT: You're excused.

3 (Whereupon the following took place
4 back within the hearing of the open
5 courtroom:)

6 THE COURT: Ms. Schlissel, what was
7 your husband's occupation prior to
8 retirement?

9 PROSPECTIVE JUROR: He was with Time
10 Warner Corporation.

11 THE COURT: Is there anything that you
12 prefer to discuss privately?

13 PROSPECTIVE JUROR: Yes.

14 (Whereupon the following side bar
15 conference took place outside the hearing of
16 the open courtroom:)

17 THE COURT: Tell us about convicted of
18 a crime.

19 PROSPECTIVE JUROR: I have a brother
20 who was in prison for seven years for drug
21 charges.

22 THE COURT: Was that here in Nassau
23 County?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Do you have any feelings

1
2 about the Police Department, or the district
3 attorney's office, from that experience?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Do you think he was fairly
6 treated?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: You may hear some testimony
9 that the victim, the person who is dead in
10 this case, might have been involved in
11 dealings drugs, using drugs, whatever. I
12 haven't heard the evidence. Would that, in
13 any way, affect your ability to be fair?

14 PROSPECTIVE JUROR: I don't think so.

15 THE COURT: You understand we're here
16 to just try the facts of this case?

17 PROSPECTIVE JUROR: I understand.

18 THE COURT: Mr. Walsh?

19 MR. WALSH: Nothing.

20 MR. BRETTSCHEIDER: No.

21 (The following took place back within
22 the hearing of the open courtroom:)

23 THE COURT: Before I have my court
24 reporter go back, Mr. Dunne, is there
25 anything you prefer to discuss privately?

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2 PROSPECTIVE JUROR: No.

3 THE COURT: Tell me about convicted of
4 a crime.

5 PROSPECTIVE JUROR: My best friend was
6 convicted of marijuana possession with
7 intent to sell.

8 THE COURT: How long ago?

9 PROSPECTIVE JUROR: Early Eighties.

10 THE COURT: Was that here in Nassau
11 County?

12 PROSPECTIVE JUROR: No. Morristown,
13 New Jersey.

14 THE COURT: After the conviction, do
15 you remember the sentence?

16 PROSPECTIVE JUROR: It was time served,
17 which was probably something like ninety
18 days, plus probation.

19 THE COURT: Anything that would carry
20 over to this case from what happened to your
21 friend.

22 PROSPECTIVE JUROR: No.

23 THE COURT: You won't hold it against
24 the Police Department or the District
25 Attorney of this county for what happened.

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2 PROSPECTIVE JUROR: No.

3 THE COURT: You feel your friend was
4 fairly treated.

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Tell me about law
7 enforcement.

8 PROSPECTIVE JUROR: My father is
9 retired from the New York City Police
10 Department, twenty years. Additional ten
11 years as bailiff.

12 THE COURT: I tell you, as I do all my
13 prospective jurors, the police officers are
14 human beings. You don't decide to believe
15 or disbelieve anyone because of their
16 occupation, before you even listen. You
17 listen, you keep an open mind and you use
18 your common sense. Do you have any problem
19 with that?

20 PROSPECTIVE JUROR: Using my common
21 sense? No.

22 THE COURT: What about giving a police
23 officer any greater believability or lesser
24 believability than anyone else, without even
25 listening.

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2 PROSPECTIVE JUROR: No. I think I
3 would treat them fairly.

4 THE COURT: You have to treat them the
5 same, no matter what the person's occupation
6 was, be it a priest, a fireman, a judge.
7 You listen, use your common sense, as you
8 said.

9 Mrs. Palladino, you told us about your
10 occupation previously.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: I see your husband is a
13 member of the New York Police Department.

14 PROSPECTIVE JUROR: Right.

15 THE COURT: Can you fairly and
16 partially sit in a case where we have
17 numerous witnesses who will be testifying
18 who are members of law enforcement.

19 PROSPECTIVE JUROR: I can be objective.

20 THE COURT: Can you judge a police
21 officer the same as anyone else who takes
22 the stand.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Any other law enforcement
25 people, in addition to your husband.

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PROSPECTIVE JUROR: No.

THE COURT: You also came up, ma'am, to tell us you were teaching. I forgot what grade it was.

PROSPECTIVE JUROR: First grade.

THE COURT: You sat in a civil case. It's very different, you can see already. There are different burdens of proof. I want to make sure you can put aside anything you learned in that civil case. Tell me about law enforcement people.

PROSPECTIVE JUROR: My husband was a case worker for probation and parole for one year.

THE COURT: Did he ever discuss any of his cases with you.

PROSPECTIVE JUROR: I suppose he probably did.

THE COURT: Anything in the discussions or the relationship with your husband, that would carry over to this case.

PROSPECTIVE JUROR: No.

THE COURT: You could be fair and impartial.

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PROSPECTIVE JUROR: Yes.

THE COURT: Do any of you have any business pending before the district attorney's office or the Police Department?

As jurors, your verdict must be unanimous. Twelve jurors seldom agree immediately. You will therefore be called upon to deliberate.

Can everyone on the jury promise the parties that at the time deliberations begin, you will participate in those deliberations and express your views? In other words, are you all willing to participate?

PROSPECTIVE JUROR: I didn't get a chance to respond to what you said earlier. I do have a civil case pending.

THE COURT: I'm interested in cases pending before the district attorney's office or the Police Department; which would be criminal cases.

PROSPECTIVE JUROR: No.

THE COURT: Do any of you know of any reason you can't fairly and impartially sit

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2 in this case?

3 My second series of questions concerns
4 your willingness to follow my instructions
5 on the law. In order to be jurors in the
6 case, you do not have to know anything about
7 the law. It is my function to explain the
8 law to you. It is your function to
9 determine the facts and apply the law to
10 those facts; thereby rendering a fair and
11 just verdict.

12 If you are selected as jurors, I will
13 explain the law in detail to you at the end
14 of the case. But it is important to know,
15 at this stage, that you will follow the law
16 as I give it to you. I will therefore,
17 describe, a few basic principles to make
18 sure you ask follow them. Every person
19 accused of a crime is presumed innocent.
20 That is, he stands innocent in the eyes of
21 the law. The People must rebut this
22 presumption, if they can, by the
23 presentation of evidence which convinces you
24 beyond a reasonable doubt of the defendant's
25 guilt.

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2 In a criminal case, the burden of proof
3 is on the People and remains on the People
4 throughout the trial. The defendant is not
5 required to prove or disprove anything. In
6 fact, if he so desired, Mr. Brettschneider
7 could sit there silently throughout the
8 trial.

9 Can you all accept the presumption of
10 innocence?

11 I will explain to you at the close of
12 the case exactly what reasonable doubt
13 means. You will be required to acquit if,
14 at the end of the case, because of the
15 evidence or the lack of evidence presented
16 to you, you have a reasonable doubt as to
17 guilt. Can you all accept the standard of
18 proof in all criminals cases: Beyond a
19 reasonable doubt? Everyone accepts that.

20 Is there anyone who would hold the
21 People to a higher standard of proof than
22 that required by law?

23 Your job in this case will end when you
24 determine whether or not the defendant has
25 been proven guilty. If the defendant is to

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2 be punished, punishment is a job for the
3 Court exclusively. The jury will have no
4 role to play. You are not permitted to
5 consider the possibility of punishment in
6 your deliberations. You may not include any
7 recommendation as to sentence in your
8 verdict. Can you all do that?

9 Under our system of law, the defendant
10 is not obligated to take the witness stand
11 or call any witnesses, or explain his
12 actions, in any way. You must not draw any
13 inference unfavorable to the defendant from
14 this fact. Are there any of you who will or
15 might allow the fact that the defendant may
16 not testify to influence you in your
17 deliberations.

18 It is not essential that you agree with
19 or even like these principles of law. You
20 must be willing to follow the law as I give
21 it to you. Can you do that?

22 Do any of you have any feelings about
23 the police that would lead you to give a
24 police officers' testimony any greater or
25 lesser weight than anyone else's, without

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2 even listening.

3 In this case, after we select our
4 twelve jurors and three alternates, we will
5 proceed to the trial. I ask you to continue
6 to participate in this process of jury
7 selection in accordance with the terms and
8 spirit of the oath which you have all taken.
9 Those of you who will be selected, must be
10 prepared to sit on the case for as long as
11 the trial may last; and until a verdict is
12 rendered.

13 Let me tell you, also, another things
14 about our schedule, which might help a
15 little bit. While I am trying this case, I
16 am trying to juggle approximately one
17 hundred fifty other cases, as well. I
18 usually do that in the early morning.
19 Except for the day you deliberate, you won't
20 have to be here until eleven o'clock in the
21 morning. We take lunch between the hours of
22 twelve-thirty and two. I will try to have
23 you out of the courtroom between four-thirty
24 and quarter of five, every day.

25 Also, this is a criminal trial, ladies

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2 and gentlemen. During the final
3 deliberations, you will be sequestered at
4 all times. This means, that should the jury
5 continue to deliberate for more than one
6 day, our law requires that hotel
7 accommodations be made available, and the
8 jury sequestered each night before resuming
9 the deliberations on each following day.

10 Mr. Walsh?

11 MR. WALSH: Yes.

12 As Judge Boklan told you, my name is
13 Michael Walsh. I'm an assistant district
14 attorney here in Nassau County. My
15 responsibility is to present the evidence to
16 you during the course of this trial.

17 The most important thing that I can say
18 to you, the most important thing that I can
19 ask of you right now, is that there are no
20 right or wrong answers to questions that we
21 ask you. Whether I'm asking you questions,
22 or Mr. Brettschneider, Judge Boklan. The
23 only good answer that you can give us is the
24 most honest and candid one you possibly can.

25 A lot of people feel that this process

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2 is the most important part of a trial.
3 Without getting twelve jurors who can be
4 fair and impartial to each side, the rest of
5 the trial essentially becomes a waste of
6 time. The system depends on the twelve
7 people who can truly give both sides a fair
8 trial.

9 What I would ask you to do is,
10 sometimes there's a temptation on the part
11 of people who are sitting where you are, to
12 perhaps give us what you think the right
13 answer might be. Or maybe the answer that
14 you think we might want to hear. I'm asking
15 you not to do that.

16 Give us the most honest and candid
17 answer you possibly can. Whether or not
18 it's what you think we want to hear. That's
19 the only way we can get a fair and impartial
20 jury to both sides.

21 Everybody heard what the charges are.
22 Judge Boklan told you, they were murder in
23 the second degree, intimidating a witness in
24 the first degree, hindering prosecution in
25 the second degree.

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2 Without hearing anything else, without
3 more, is there anything about the nature of
4 those charges that would cause any of you to
5 feel that you couldn't be fair and
6 impartial?

7 We had a juror -- again, we have gone
8 through a number of rounds of jury
9 selection. One of the prospective jurors
10 yesterday, when I got into that question,
11 said something like, I don't know that I can
12 handle the responsibility in a case like
13 this, of either finding somebody guilty or
14 not guilty. Does anybody share those
15 feelings?

16 PROSPECTIVE JUROR: It's not a judgment
17 that we're making or an opinion?

18 MR. WALSH: What you're asked to do is,
19 essentially this: You listen to the
20 evidence, you listen to witnesses testify,
21 or anything you might see.

22 Based upon that, you determine whether
23 or not I have proven to you beyond a
24 reasonable doubt, that Joseph Jackson is
25 guilty of the crimes charged in the

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2 indictment. That's essentially what it
3 involves.

4 Your verdict has to be based upon the
5 evidence; and nothing else. That's the
6 reason I asked this question. It's very
7 easy for people, when they're sitting in
8 their living room, talking to their family
9 or friends, to talk about how nice it would
10 be to be on a jury. Once you step into the
11 courtroom and Judge Boklan reads an
12 indictment that says, murder in the second
13 degree, reality kind of sets in.

14 What I like to ask, is this question:
15 Assume you're chosen as a juror. You hear
16 all the evidence. After the evidence, just
17 assume for the purpose of my questioning,
18 you're convinced beyond a reasonable doubt
19 that Joseph Jackson is guilty of the crimes
20 charged in the indictment. You go back in
21 the jury room. All of you -- you and all
22 your fellow jurors -- come to that
23 conclusion. Can you walk back out in this
24 courtroom, stand up and look at the
25 defendant, and find him guilty of murder in

1
2 the second degree?

3 PROSPECTIVE JUROR: I would have a hard
4 time rendering such an opinion. Maybe it's
5 just me inside having a hard time. I don't
6 want to be judgmental, because everything is
7 based on the evidence. It has to come from
8 the information. I think it's just me. I
9 don't want to make a judgment. I don't feel
10 I have that right to make judgment. If it's
11 an opinion, I feel I have an entitlement.
12 Do you understand that?

13 MR. WALSH: Only sort of. I'm having a
14 hard time drawing a distinction between what
15 you mean.

16 THE COURT: Can you make a decision?

17 PROSPECTIVE JUROR: That's a better
18 word.

19 THE COURT: Can you make a decision on
20 whether someone is guilty or not guilty,
21 based on the evidence?

22 PROSPECTIVE JUROR: As long as -- I'm
23 talking for me. I could separate judgment
24 from opinion. I know what I'm saying
25 inside. I'm not explaining it right. To

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2 make a decision based upon the information,
3 it's enough here to go on. That's why we
4 make a decision.

5 MR. WALSH: The reason I asked that
6 last question, is because what I usually
7 follow up with, is, whatever your verdict
8 is, whether guilty or not guilty, I want to
9 make sure that that verdict is based upon
10 the evidence; and nothing else. That's what
11 I'm concerned with. Do you think you can do
12 that?

13 PROSPECTIVE JUROR: I have no problem
14 with that.

15 THE COURT: How about you,
16 Ms. Landetta?

17 PROSPECTIVE JUROR: Yes.

18 MR. WALSH: Based upon the evidence
19 that you have. Let me ask you the question
20 again. If I prove my case to you, if you
21 listen to the evidence, beyond a reasonable
22 doubt, do you have any problem walking into
23 the courtroom, looking at the defendant and
24 finding him guilty of second degree murder?

25 PROSPECTIVE JUROR: No.

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2 MR. WALSH: If I don't prove any case,
3 you can find him not guilty?

4 PROSPECTIVE JUROR: That's right.

5 MR. WALSH: Anybody else feel any
6 differently? After listening to what I
7 said, and some of your fellow prospective
8 jurors said, does anybody feel they would
9 have a difficult time with this case?

10 Judge Boklan read to you a list of
11 witnesses; potential witnesses you might
12 hear during the course of the case.
13 Probably over half of those witnesses are
14 police officers. If you are chosen to sit
15 on this case, you are going to hear
16 testimony from police officers. I think
17 that the most important question really,
18 essential question, when you're talking
19 about evaluating testimony of police
20 officers, is whether or not any of you
21 believe that a police officer is any more
22 likely or any less likely to tell the truth
23 on the witness stand just by virtue of the
24 fact that they're a police officer. That's
25 really the question. Does anybody have any

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2 feelings one way or the other about that.

3 PROSPECTIVE JUROR: I think they're no
4 different than anybody else. People are
5 people.

6 MR. WALSH: Great. They're human
7 beings. They're subject to the same
8 frailties as you are.

9 PROSPECTIVE JUROR: Right. They bleed
10 the same way.

11 MR. WALSH: Because a police officer
12 wears a uniform and badge, do you feel you
13 would tend to believe what that person says,
14 more than anybody else; all other things
15 being equal.

16 PROSPECTIVE JUROR: No.

17 PROSPECTIVE JUROR: I agree with her.

18 MR. WALSH: Does anybody disagree? Or
19 does anybody feel they would TEND to believe
20 what a police officer said any more or any
21 less than anyone else?

22 Ms. Paladino, does it matter to you
23 whether the victim was black or white?

24 PROSPECTIVE JUROR: No.

25 MR. WALSH: Does it matter to you

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2 whether the victim is young or old?

3 PROSPECTIVE JUROR: No.

4 MR. WALSH: Does it matter whether the
5 victim is male or female.

6 PROSPECTIVE JUROR: No. Regardless,
7 it's a shame.

8 MR. WALSH: You wouldn't take this case
9 any more or less serious based upon anything
10 that was just mentioned.

11 PROSPECTIVE JUROR: No.

12 MR. WALSH: What if you found out,
13 during the course of the trial, that the
14 victim, the individual who was killed, sold
15 drugs during the course of his life? What
16 would you think of the case.

17 PROSPECTIVE JUROR: I would have to see
18 the circumstances, in order to make an
19 opinion.

20 MR. WALSH: First of all, it's not
21 something you approve of.

22 PROSPECTIVE JUROR: Right.

23 MR. WALSH: Is it something that would
24 make you take this case any less seriously
25 than you otherwise would?

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2 PROSPECTIVE JUROR: No. Serving as a
3 juror is a serious service, to be taken with
4 importance.

5 MR. WALSH: My concern is -- let me go
6 back. I spoke about, basically, the job of
7 a jury determining what happened. Based on
8 the evidence, determine whether or not the
9 defendant committed the crime with which he
10 was charged. Who the victim was, whether or
11 not you like what you hear about him,
12 whether or not you approve of what his
13 lifestyle was, has nothing to do with
14 whether or not this defendant committed the
15 crime that he's charged with. Right?

16 PROSPECTIVE JUROR: Right.

17 MR. WALSH: I'm concerned that if you
18 hear things you don't like about the victim
19 in this case, that it would cause you or
20 anybody else to take the case less seriously
21 than you otherwise would.

22 Can everybody separate those two
23 things? Does anybody feel differently?
24 Again, at the beginning, I said, please be
25 honest.

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2 PROSPECTIVE JUROR: I think I would be
3 more empathetic toward the defendant if the
4 victim were a criminal, himself. I really
5 do.

6 MR. WALSH: Thank you. Again, I said
7 at the outset, it may not be what everybody
8 considers the right answer. If that's the
9 way you feel, we need to know that. Does
10 anybody feel the same way? I would just
11 ask, before I sit down, there are a couple
12 of you who came up to the Bench earlier.
13 You expressed reservations. My concern, and
14 I would think everybody's concern here, is
15 that we have twelve jurors who are not only
16 fair and impartial, but who are going to be
17 giving us their full attention and giving
18 the case the full attention; should you be
19 chosen as a juror.

20 Is there anybody who's going to have a
21 problem with that? Specifically, Mr. Dunne,
22 you were at the Bench before. Do we have
23 anything to be concerned about, as far as
24 that's concerned; your being here but not
25 being here?

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2 PROSPECTIVE JUROR: No. If I'm chosen,
3 I will fill it one hundred -- I will devote
4 one hundred percent to the case.

5 MR. WALSH: Ms. Paladino, how about
6 yourself?

7 PROSPECTIVE JUROR: It's just that I
8 have a four year old daughter, and if she
9 should get sick, I would have to stay home
10 and watch her. I don't know how that
11 affects the jury. I can't promise that
12 she's not going to get sick.

13 THE COURT: We can never promise that
14 with a four year old. There is no other day
15 care available? I know you mentioned, you
16 do work.

17 PROSPECTIVE JUROR: I have a
18 babysitter. Usually, when she is sick, I do
19 take off from work. I don't leave her with
20 my sitter. That's my only concern.

21 THE COURT: If she did get sick, for
22 example, you were deliberating, or going
23 into deliberations, you realize you couldn't
24 go home. Certainly, with any jury, if there
25 were an emergency during the course of a

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2 trial, we would try to accommodate you.

3 PROSPECTIVE JUROR: I could probably
4 work things out with my husband. I always
5 like knowing what's going on with her. If
6 she got sick, how would that affect it?

7 THE COURT: It would. Certainly, if
8 she had a cold, a nose cold, you would still
9 have to come in and serve on the jury.

10 PROSPECTIVE JUROR: All right.

11 THE COURT: If there was something, God
12 forbid, serious --

13 PROSPECTIVE JUROR: Oh, no. God
14 forbid. I would make arrangements.

15 MR. WALSH: If you're chosen to be
16 here, you'll be with us.

17 PROSPECTIVE JUROR: With my undivided
18 attention.

19 PROSPECTIVE JUROR: May I ask a
20 question? Your Honor, does the Court have,
21 you know, the overrule with our jobs, that
22 we can't lose our jobs if we remain on here?

23 THE COURT: The legislature has passed
24 laws that you can't lose your job. However,
25 we can't force anyone to pay you. They

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2 can't punish you for being on jury duty. If
3 you felt you were being punished for that, I
4 guess you would go to the Commissioner of
5 Jurors. That is against the law.

6 PROSPECTIVE JUROR: But if, right now,
7 they pay us for jury duty, is there a
8 certain time that, you know, that they only
9 pay us up to?

10 THE COURT: They don't have to pay you
11 for very long. They certainly wouldn't pay
12 you are to five weeks. For instance, LILCO,
13 school districts, they all pay. If they
14 don't pay you, would that be a hardship?

15 PROSPECTIVE JUROR: Yeah. Because
16 that's my source of income.

17 THE COURT: What type of organization
18 do you he work for?

19 PROSPECTIVE JUROR: Long Island Jewish.

20 THE COURT: I'll allow you to make a
21 phone call. We'll continue with the jury
22 selection. I'm going to have my law
23 secretary from inside, call the Long Island
24 Jewish Hospital, Hillside Division and find
25 out what their policy is.

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2 PROSPECTIVE JUROR: I could give you
3 the number. It will be a lot easier to ask
4 them directly. I would appreciate it.

5 PROSPECTIVE JUROR: I might have a
6 problem with that, also. I don't know how
7 long they pay me for.

8 THE COURT: We'll have to let you make
9 a call, or call on your behalf. Do you have
10 a preference?

11 PROSPECTIVE JUROR: I can call.

12 THE COURT: We'll continue. Then
13 before we make the final determination,
14 we'll let you go out and make a telephone
15 call. In the meantime, let's go through the
16 questions.

17 MR. WALSH: Do you have any reason you
18 feel you couldn't be fair and impartial?

19 PROSPECTIVE JUROR: No.

20 MR. WALSH: Anything that I said or
21 Judge Boklan said, bother you?

22 PROSPECTIVE JUROR: No.

23 MR. WALSH: Cause you any problem.

24 PROSPECTIVE JUROR: No.

25 MR. WALSH: Basically, I prove my case

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2 to you beyond a reasonable doubt, you walk
3 out here and you find him guilty.

4 PROSPECTIVE JUROR: Yes. If it's
5 proven beyond a reasonable doubt.

6 MR. WALSH: If I don't, you find him
7 not guilty.

8 PROSPECTIVE JUROR: That's right.

9 MR. WALSH: Whatever your verdict is,
10 it's based on the evidence.

11 PROSPECTIVE JUROR: The evidence only.

12 MR. WALSH: Is there anything that I
13 haven't covered, before I sit down, any
14 reason that any of you feel you would have
15 difficulty being fair and impartial?

16 PROSPECTIVE JUROR: The only thing I
17 wish was covered now and not later, would be
18 the definition of reasonable doubt, since
19 that is such a major thing we would have to
20 hear and agree to.

21 THE COURT: It is. It's complicated.
22 I will explain it at the end of the case,
23 where it makes more sense to you, as well.
24 All you have to know, at this point is, to
25 the best of your ability, will you follow

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2 the law as I give it to you, and the
3 explanation that I give you.

4 PROSPECTIVE JUROR: I guess I'm going
5 to have to wait to hear it.

6 MR. WALSH: You definitely will have to
7 wait to hear it. You seem troubled by that.

8 PROSPECTIVE JUROR: Yeah. Because it's
9 such a vague term. Not to know what the
10 definition is, and if I could commit to
11 agreeing to it is troublesome; yes.

12 THE COURT: Well, you have to agree to
13 whatever I say, whether you agree with it or
14 you disagree with it. So that, basically,
15 whatever the definition is, you have to be
16 willing at this time to following the law.

17 PROSPECTIVE JUROR: Judge, as you well
18 know, there are parameters to definitions
19 and some interpretation, I'm sure.

20 THE COURT: There's a lot of
21 interpretation, to what constitutes beyond a
22 reasonable doubt. I will explain that law
23 to you. Then you have to get into the jury
24 room and determine whether you feel that
25 that standard has been reached. I don't --

1
2 it's not like a philosophical or theological
3 question, where it's a play on words.

4 I tell you this is the standard. Then
5 you get into the jury room; and you have to
6 make sure that all of you are in agreement
7 that that standard has been reached. If I
8 give you a bottom line sentence now, it
9 won't be -- it will be out of context with
10 the entire charge. It doesn't make as much
11 sense as it does at the end.

12 MR. WALSH: What we have to try to get,
13 if we possibly can -- and the answer might
14 be that you can't give us any such
15 assurances -- what we have to try to get is,
16 your assurance that you will follow the law
17 as Judge Boklan instructs you that it is.
18 That's even if you don't agree with it. If
19 the Judge tells you at the end of the case,
20 it's against the law to stand with your left
21 hand in your pocket, that may seem
22 ridiculous to you. But your obligation is
23 to follow the law as the Judge gives it to
24 you; whether you agree with it, or whether
25 you like it or not. Whatever that law is,

1
2 whatever definition she gives you. Do you
3 think you can do that?

4 PROSPECTIVE JUROR: Yeah. Just as long
5 as we admit that when each person, there's
6 some latitude with their interpretation of
7 what the definition means.

8 MR. WALSH: One person could find that
9 something is proven to them beyond a
10 reasonable doubt. Somebody else might feel
11 it's not.

12 THE COURT: You're out of time.

13 MR. WALSH: We have your assurance that
14 whatever the law is that the Judge gives to
15 you, you will do your best to follow it.

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Mr. Brettschneider?

18 MR. BRETTSCHEIDER: Yes. One of the
19 things that obviously has to be discussed
20 with anyone who is a prospective juror is
21 the nature of the case and whether this case
22 is right for them. And whether a case is
23 right for us, is based upon your common
24 sense and life experience. I don't know
25 what's gone on in your life, which would

1
2 either make you fair or unfair as
3 prospective jurors.

4 Now, Mr. Dunne, I just want to continue
5 on with what was discussed with Mr. Walsh.
6 It's not in the sense of putting you on the
7 spot.

8 Basically, one of the things that any
9 attorney would want to know is, can a juror
10 follow the law. Certainly, as a teacher of
11 theology, you know different things that --
12 you know, with regard to bigger questions
13 than some of the things that we settle here
14 in a Court of law. Of course, this is an
15 extremely serious case. There may be things
16 that you may feel as though you couldn't
17 follow the law.

18 What the Judge is going to explain with
19 regard to reasonable doubt, I'm not going to
20 tell you what reasonable doubt is, is that
21 there are certain things that are reasonable
22 doubt, and certain things that are not.

23 If you felt, based on your own common
24 sense and your life experience, that what
25 the Judge was telling you, you could not

1
2 agree with, would you do something other
3 than what the law was.

4 PROSPECTIVE JUROR: If, during the
5 explanation, there was a serious
6 disagreement that I could not fulfill any
7 obligation, and take the instruction of the
8 Judge, serious disagreement?

9 MR. BRETTSCHEIDER: Because basically,
10 when you swear an oath as a juror, you're
11 saying I can follow the law. At this point,
12 since you don't know the law, would you have
13 a problem sitting as a juror.

14 PROSPECTIVE JUROR: Well, one of the
15 reasons I raised the issue is so that we
16 could clarify that. So I could say for
17 sure, I could follow the law. Without
18 having heard that, I don't know.

19 MR. BRETTSCHEIDER: Let me give you an
20 example. If the defendant did not choose to
21 take the witness stand and you didn't hear
22 from him, would that create a problem in
23 your mind as to whether you could find him
24 not guilty.

25 PROSPECTIVE JUROR: No.

1
2 MR. BRETTSCHEIDER: What if there were
3 no witnesses on his behalf.

4 PROSPECTIVE JUROR: No.

5 MR. BRETTSCHEIDER: What if there was
6 evidence which would tend for you to believe
7 that someone other than the defendant
8 committed this crime? Could you find him
9 not guilty.

10 PROSPECTIVE JUROR: Yes.

11 MR. BRETTSCHEIDER: Now, one of the
12 things that was discussed is that you're a
13 teacher. There were concerns about, you
14 know, teaching your students. The other
15 question I think Mr. Walsh touched on,
16 briefly is, somewhere in the middle of
17 December you get a call from people at your
18 school, and they say, listen, you know.
19 Parents are calling. They're unhappy.
20 Where's Dunne. He's sitting on a jury in
21 Mineola. Well, that's not good enough.
22 Somebody calls you and says, hey, when are
23 you coming back. Will that distract you to
24 the point that you couldn't sit as an
25 effective juror.

1
2 PROSPECTIVE JUROR: No. I don't think
3 that would.

4 MR. BRETTSCHEIDER: In this case, you
5 may not hear from Joseph Jackson. The fact
6 that he sits at the defense table and he's
7 accused of murder, does that say something
8 to you? Or do you -- I mean, from the
9 time -- you've heard the term, presumed
10 innocent. The law says he's presumed
11 innocent. The fact is, he's sitting over
12 there. You've heard he's accused of an
13 extremely serious crime. Could you put that
14 aside.

15 PROSPECTIVE JUROR: Yeah.

16 MR. BRETTSCHEIDER: Yes.

17 PROSPECTIVE JUROR: Would I take into
18 consideration that he's still innocent until
19 proven guilty?

20 MR. BRETTSCHEIDER: Yes.

21 PROSPECTIVE JUROR: Absolutely.

22 MR. BRETTSCHEIDER: The fact is that
23 you've heard that Joseph Jackson doesn't
24 have to testify. Nobody has to testify in
25 his behalf. Yet, all along, you always

1
2 hear -- there's always two sides of a story.
3 The Court says, doesn't have to be two
4 sides. Agree or disagree with that
5 proposition, that you don't have to hear two
6 sides of a story this case?

7 PROSPECTIVE JUROR: I would like to
8 hear his side. I would probably say to
9 myself, well, if he's innocent, why not tell
10 the Court his side of the story.

11 MR. BRETTSCHEIDER: Let me propose
12 this to you: Let's say witness number one
13 gets on the witness stand. The district
14 attorney goes first, because he's proving
15 his case. Witness number one gets on the
16 stand. Using your common sense, your life
17 experience, you say witness number one is
18 not telling the truth.

19 Witness number two gets on the stand.
20 Again, you don't believe witness number two.
21 Witness number three gets on the stand and
22 tells a contradictory story as to witness
23 number one and witness number two. The
24 district attorney stands up and says, I
25 rest. He says no more witnesses.

1
2 I get up, I say, no witnesses.

3 The Judge instructs you on the law and
4 asks you to deliberate and come up with a
5 verdict. Based upon the fact that you've
6 heard three witnesses, none of whom you
7 believe, that's the evidence that's
8 presented to you.

9 You haven't heard from Mr. Jackson; you
10 haven't heard from anyone on his behalf.
11 Could you find him not guilty.

12 PROSPECTIVE JUROR: Yes. I would find
13 him not guilty.

14 MR. BRETTSCHEIDER: Same question.
15 You don't hear from Mr. Jackson, but you
16 don't believe any of the witnesses. But
17 there is somewhere a sense that says, boy,
18 there must be situations in which it's
19 impossible to prove innocence. That's why
20 the terms are not guilty and guilty. Bottom
21 line is, do you need to hear two sides of
22 the story in this case?

23 PROSPECTIVE JUROR: If I don't get two
24 sides, I have to go with what I have.

25 MR. BRETTSCHEIDER: The law says I'm

1
2 not obligated to provide you with a second
3 side of the story.

4 PROSPECTIVE JUROR: No problem.

5 MR. BRETTSCHEIDER: You're a nurse.
6 I'm sure you prepare a lot of paperwork in
7 your field.

8 PROSPECTIVE JUROR: Yes.

9 MR. BRETTSCHEIDER: Is accuracy
10 important.

11 PROSPECTIVE JUROR: Very important.

12 MR. BRETTSCHEIDER: There may be
13 witnesses in this case who prepared reports.
14 And certainly, in a case as important as
15 this -- there's no hiding what the
16 consequences are in a case such as this.
17 I'm not asking you to hold anybody to a
18 higher standard. If someone's paperwork is,
19 to term it, sloppy, or inadequate, in your
20 opinion, would you trust that person's
21 reliability as to what they testified to,
22 based on the fact that their paperwork
23 wasn't correct.

24 PROSPECTIVE JUROR: It depends on how
25 uncorrect it was.

1
2 MR. BRETTSCHEIDER: Let's say someone
3 gets on the stand and testifies to a certain
4 arrest date. You find out on his paperwork,
5 he has a date two months different from what
6 he testified to. Would you question his
7 reliability.

8 PROSPECTIVE JUROR: I might.

9 MR. BRETTSCHEIDER: Let me ask you, as
10 far as, here's a situation in which you are
11 sitting in judgment on a murder case. There
12 may be graphic pictures. There may be
13 things you're going to hear. The fact that
14 you see a person who has died. I mean,
15 there's a natural inclination to feel sorry.
16 The fact that there is a victim in this
17 case, will that sympathy somehow interfere
18 with your ability to be fair in making an
19 evaluation as to the evidence in this case?

20 PROSPECTIVE JUROR: No; I don't think
21 so.

22 THE COURT: Before you get to
23 Ms. Paladino, I have the answer for her. We
24 don't have a definitive answer for you,
25 Mrs. Martin.

1
2 Mrs. Palladino, your people will pay
3 for only two weeks.

4 PROSPECTIVE JUROR: That would be a
5 problem.

6 THE COURT: That would be a hardship
7 for you?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: You're excused.

10 Mrs. Martin, Long Island Jewish thinks
11 it's three weeks, but they're checking it.

12 PROSPECTIVE JUROR: If it's three
13 weeks, I'm going to have a problem, because
14 that's what I live off.

15 THE COURT: I'm sorry, counsel.

16 MR. BRETTSCHEIDER: That's all right.

17 One of the things we were talking
18 about, sympathy -- there was a situation in
19 which somebody died, no matter who that
20 person was, there is generally a feeling of
21 sympathy. Will that interfere with your
22 ability to give Mr. Jackson a fair trial?
23 Put aside the fact that someone died in this
24 situation, or -- can you put that aside and
25 give him a fair trial.

1
2 PROSPECTIVE JUROR: I could give him a
3 fair trial, according to the evidence. If
4 it was proven to me that he was guilty, I
5 would then render a verdict of guilty. If
6 it was proved he was innocent, I would
7 render a verdict of innocent.

8 MR. BRETTSCHEIDER: There may be
9 police officers who are going to testify in
10 this case. For example, let's say that that
11 police officer got on the stand and he
12 testified that he received a confession or a
13 statement from a witness in this case. The
14 fact that he's a police officer, does that
15 make it so.

16 PROSPECTIVE JUROR: No. I don't think
17 it would make it so. He's human. He could
18 be telling us that this is what happened,
19 and it really didn't. I would take it into
20 consideration. He's a human being.

21 MR. BRETTSCHEIDER: Same question.
22 The fact that a police officer gets on the
23 stand and says, listen, I got a statement
24 from this person. This person said X, Y and
25 Z. Does that make it so, that X, Y and Z

1
2 was said by that person.

3 PROSPECTIVE JUROR: If I believe he was
4 telling the truth.

5 MR. BRETTSCHEIDER: What if you didn't
6 believe he was telling the truth.

7 PROSPECTIVE JUROR: Then I wouldn't
8 believe him.

9 MR. BRETTSCHEIDER: The fact is, would
10 you give a police officer some sort of
11 higher standing; in the sense that, do you
12 believe that a police officer has no motive
13 to lie.

14 PROSPECTIVE JUROR: No.

15 MR. BRETTSCHEIDER: Have there been
16 times on your own job, in which you question
17 somebody as far as maybe not understanding
18 why they didn't do something, or they may
19 not have told the truth. You can't figure
20 out their motive as to why they may not be
21 telling the truth. There may be an
22 indication where you may feel, based on your
23 common sense, your life experience, somebody
24 is not telling the truth on the witness
25 stand. Would you use what you have learned

1
2 at work, and within your personal life, in
3 making that determination.

4 PROSPECTIVE JUROR: I think so. Yes.

5 MR. BRETTSCHEIDER: One of the things
6 that is different probably than judgments we
7 make in our own personal life, is that we
8 know people.

9 THE COURT: Before you continue with
10 Mrs. Martin, unfortunately, we just found
11 out, she works part-time only. They won't
12 pay, at all.

13 PROSPECTIVE JUROR: That's news. When
14 I was here, they said they would pay me for
15 jury duty.

16 THE COURT: They just checked it and
17 called back. You say you need that money to
18 live on.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: I'm going to excuse you. I
21 can't take away your salary for five weeks.
22 I'm sorry.

23 Mr. Dunne, what are we checking for
24 you?

25 PROSPECTIVE JUROR: To see if I get

1
2 paid.

3 MR. BRETTSCHEIDER: Mr. Dunne, while
4 you're here, a lot of times, what I was
5 saying to Ms. Martin is, we know people. We
6 know whether to trust their word or not.
7 When you meet a person for the first time,
8 you're going to be meeting witnesses for the
9 first time, and you're going to have to
10 trust whether they're telling the truth.

11 What are the things you look for in
12 whether a person is telling the truth or
13 not.

14 PROSPECTIVE JUROR: I would look for
15 consistency in what they're saying. See if
16 it makes sense. See if it's reasonable.
17 See if it's prefabricated, kind of coached
18 kind of testimony. Hopefully, with
19 questioning, it would give me an overview of
20 how they respond to things they not be
21 prepared for. If they respond quickly and
22 honestly.

23 MR. BRETTSCHEIDER: Same question.

24 PROSPECTIVE JUROR: I like people who
25 look at you when you talk to them.

1
2 MR. BRETTSCHEIDER: If you have
3 somebody who gets on the stand, you find out
4 that they've been in trouble from the time
5 they were a teen-ager to the present, how
6 would you feel about that type of person?

7 PROSPECTIVE JUROR: I would have to sit
8 and really search my soul to listen to a
9 person like that. I would have my doubts.

10 MR. BRETTSCHEIDER: Same question.
11 Somebody has been in trouble from the time
12 they have been a teenager to the minute they
13 walked on that witness stand. How do you
14 look at that person in regard to
15 credibility, as to what that person is
16 telling you.

17 PROSPECTIVE JUROR: I'm going to have
18 some difficulties with it. I might have
19 some difficulty believing them. It would
20 depend on what they say.

21 MR. BRETTSCHEIDER: How about you.

22 PROSPECTIVE JUROR: I would have a hard
23 time believing that person.

24 MR. BRETTSCHEIDER: I have nothing
25 further.

1
2 THE COURT: Counsel, when you're read,
3 approach.

4 (Whereupon the following side bar
5 conference took place outside the hearing of
6 the jury:)

7 THE COURT: I'm missing my clerk.
8 Counselor, we have ten jurors. So
9 we'll do the first two first. Challenges
10 for cause?

11 MR. WALSH: No.

12 THE COURT: Defendant?

13 MR. BRETTSCHEIDER: No.

14 THE COURT: Peremptory, People?

15 MR. WALSH: Yes. Number one.

16 THE COURT: Defendant?

17 MR. BRETTSCHEIDER: Yes.

18 THE COURT: The next two. That's seats
19 five and six. Challenges for cause?

20 MR. WALSH: I'm going to challenge both
21 of them for cause. Taking number five
22 first, the last thing she said was, she
23 would have to search her soul to listen to a
24 person who has been in trouble before.
25 That's much different than what Ms. Weber

1
2 said, she would have trouble believing
3 someone. She said she would have to search
4 her soul.

5 MR. BRETTSCHEIDER: I consent.

6 THE COURT: All right. How about
7 Mr. Dunne?

8 MR. WALSH: I want to make sure I heard
9 this right.

10 THE COURT: He said if there was a
11 serious disagreement, he could not follow my
12 instructions on the law.

13 MR. WALSH: I challenge him.

14 MR. BRETTSCHEIDER: I consent.

15 THE COURT: All right. We're up to
16 seat number eight.

17 MR. WALSH: Yes. I challenge for
18 cause. If the individual was involved in
19 selling drugs, she said she would take the
20 case less seriously.

21 MR. BRETTSCHEIDER: She did -- I would
22 consent.

23 THE COURT: All right.

24 (Whereupon the following took place
25 back within the hearing of the open

1
2 courtroom)

3 THE CLERK: All jurors in the box,
4 please step down. You have been excused
5 with the thanks of the Court.

6 THE COURT: All right. Counsel, we are
7 now adjourned until Tuesday. I would prefer
8 to do it as you initially suggested,
9 Mr. Brettschneider, to find out right away
10 how many were willing to stay with us.
11 Because even though we have some additional
12 people during the questioning, of course,
13 later on, we had to let them go, in any
14 event.

15 Do you suggest I try to get another
16 seventy-five or one hundred? You're down
17 to -- this is not the official count. The
18 People have used, I think, sixteen
19 challenges. The defendant has used
20 eighteen. With that in mind, we'll try to
21 get one hundred.

22 MR. WALSH: Why not. It can't hurt.

23 THE COURT: Once we start with the
24 alternates, you have of course, two
25 challenges per seat.

1
2 MR. BRETTSCHEIDER: Your Honor, just
3 some business with regard to Rosario
4 material. I don't know if Mr. Walsh has the
5 rest of my Rosario material, or whether he
6 wants to put it on the record.

7 There's one other issue I want to bring
8 up, which I was alerted to yesterday. It
9 regards one of Mr. Walsh's witnesses. I
10 don't know whether Mr. Walsh want to address
11 it today or on Tuesday.

12 I have information that Peddie Jenkins,
13 one of the witnesses who will testify
14 against Mr. Jackson, is an eyewitness. I
15 was informed by members of the family --
16 because Mr. Jenkins is a member of
17 Mr. Jackson's family -- that during the time
18 he has been incarcerated, he tried to commit
19 suicide by lighting himself on fire.

20 Additionally, he has been treated by
21 either a psychiatrist or a psychologist
22 while he's been incarcerated.

23 I would like to find out from the
24 prosecution whether that information is
25 correct. I would also like to have any

1
2 psychiatric records of Mr. Jenkins before he
3 testifies in Court.

4 THE COURT: Mr. Walsh?

5 MR. WALSH: I'll take what
6 Mr. Brettschneider said first, about Rosario
7 material. I have turned over a Rosario
8 list, as well as Rosario material to be
9 marked with the court reporter.

10 I will -- if Mr. Brettschneider
11 desires, I will provide him with the entire
12 set of Rosario material before he leaves the
13 building today. This way, he can have it.

14 As far as Mr. Jenkins is concerned, I
15 have not heard, other than from
16 Mr. Brettschneider, either of those two
17 things. I would be very surprised if --
18 especially, his attempting to light himself
19 on fire -- I don't know if it's true or not.
20 I don't know if he has a psychiatric history
21 at the jail. I can't help
22 Mr. Brettschneider one way or another. I
23 don't know that the fact that somebody goes
24 to see a psychiatrist or a psychologist, for
25 counseling, has any bearing on that person's

1
2 credibility, however. Many people go to
3 mental health professionals. I don't think
4 that has any bearing on whether they are
5 likely to be truthful or not as witnesses.

6 THE COURT: Is he incarcerated in the
7 jail?

8 MR. WALSH: He is.

9 THE COURT: Perhaps, to save time, why
10 don't we get the records.

11 MR. WALSH: All right.

12 THE COURT: They always can be -- there
13 can be an application for in camera review,
14 for anything that could affect his
15 credibility; if that application is made.

16 MR. WALSH: That's what I was going to
17 ask your Honor; if, in fact, your Honor
18 would sign a subpoena for those records. I
19 would ask the Court to inspect the records
20 first, before anything is turned over.

21 THE COURT: Why don't you get them.
22 See if there is any validity to the setting
23 on fire, or to the fact that he even saw a
24 psychiatrist. We'll take it one step at a
25 time.

1
2 I think it's best to get the records in
3 hand.

4 MR. WALSH: Fine.

5 THE COURT: Do you need a so-ordered
6 subpoena? I will not be here tomorrow.

7 MR. WALSH: I don't know that the jail
8 will comply without a Judge's signature.

9 THE COURT: You have my authorization
10 to tell the motion judge that you need it.

11 If need be, you can have my clerk
12 notify the chief clerk that I have
13 authorized it.

14 (Whereupon the trial was adjourned
15 until November 12, 1996)

STATE OF NEW YORK : NASSAU COUNTY

COUNTY COURT PART I

- - - - -x

THE PEOPLE OF THE STATE OF NEW YORK, :

-against- :Ind. 91607

JOSEPH JACKSON, :

Defendant. :

- - - - -x

November 12, 1996
262 Old Country Road
Mineola, New York

B E F O R E :

HON. ABBEY L. BOKLAN,
County Court Judge

A P P E A R A N C E S:

(As Previously Noted)

* * * * *

THE CLERK: People vs. Joseph Jackson.

Are the People ready?

MR. WALSH: Yes.

THE CLERK: Is the defendant ready?

MR. BRETTSCHEIDER: Yes.

THE COURT: We have one hundred jurors

1
2 in the hallway.

3 Mr. Walsh, you indicated that you
4 wanted to place something on the record
5 about one of the sworn jurors?

6 MR. WALSH: Yes. As I had begun to
7 indicate to the Court and
8 Mr. Brettschneider, there is a sworn
9 juror -- I think his name is Kedesh. I
10 believe he's the last juror who was sworn.
11 As it turns out, I found out after Court
12 Thursday, he knows a friend of mine, who
13 actually lives directly across the street
14 from me.

15 As I was coming into Court for the
16 session -- Mr. Kedesh was in the box for
17 Thursday -- I ran into my friend, who was
18 out in the rotunda. He came over because he
19 thought he wanted to catch opening
20 statements.

21 I spoke to my friend, who came in. As
22 it turns out, I was informed by my friend,
23 that just prior to my speaking with him, he
24 had run into Mr. Kedesh; who he knew he said
25 from a long time ago. They began to speak.

1
2 Mr. Kedesh said he was here on jury duty.
3 My friend said he was here because I was a
4 friend of his and he wanted to catch opening
5 statements.

6 At that time, Mr. Kedesh said, I can't
7 talk to you. I have to go. I'm on a jury
8 panel.

9 I just thought it was something that I
10 should bring to everyone's attention. I
11 don't know what the Court or
12 Mr. Brettschneider wants to do. I don't
13 know -- according to my friend, they hadn't
14 seen each other for years and years.
15 They're not particularly close.

16 THE COURT: Thank you. I appreciate
17 that.

18 Mr. Brettschneider?

19 MR. BRETTSCHEIDER: Your Honor, I
20 think maybe the best thing, at this point,
21 is possibly to interview Mr. Kedesh, and
22 find out if there is any problem with the
23 fact that this situation has arisen; and
24 whether he can be fair; or he somehow feels
25 obligated to Mr. Walsh's friend, to come in

1
2 with a verdict. Certainly, on a case where
3 we've taken this long to select a jury, I
4 think that's the least we can do.

5 THE COURT: Mr. Walsh, do you wish to
6 be heard?

7 MR. WALSH: No. Actually, I agree.

8 THE COURT: That's a good idea. Does
9 your client waive his presence? Or does he
10 want it done in the open Court?

11 MR. BRETTSCHEIDER: I would prefer it
12 be done in open Court.

13 THE COURT: Fine. That's what we'll
14 do. As soon as the jury comes down, we'll
15 bring Mr. Kedesh in.

16 (Whereupon the juror referred to was
17 brought into the courtroom, after which the
18 following took place:)

19 THE COURT: Good morning, sir. The
20 reason I have asked you to step in, in the
21 absence of the other sworn jurors, is that
22 Mr. Walsh informed me that you know a friend
23 of his, who you met in the courthouse before
24 we adjourned the other day.

25 SWORN JUROR: Right.

1
2 THE COURT: I just want to make sure
3 that, now knowing someone you knew and were
4 friendly with, and is also a friend of
5 Mr. Walsh, will not, in any way, interfere
6 with your ability to be fair?

7 MR. BRETTSCHEIDER: It won't.

8 THE COURT: You won't favor one side or
9 another?

10 SWORN JUROR: No.

11 THE COURT: We know you did not discuss
12 the case. So that's not --

13 SWORN JUROR: No. I saw him come in.
14 He said he was here to visit one of the
15 attorneys here. I told him I was on the
16 case. We said we shouldn't talk. He was
17 going to introduce me. I said, no, because
18 I'm going to be selected for a jury, maybe,
19 in that case.

20 THE COURT: We appreciate the way you
21 handled it, which was perfect. Does anyone
22 have any questions?

23 MR. BRETTSCHEIDER: No.

24 MR. WALSH: No.

25 THE COURT: We'll bring in the rest of

1
2 the jury.

3 (Whereupon the sworn juror was removed
4 from the courtroom)

5 THE COURT: Wait a minute. We have
6 another problem. While we were here, a note
7 was just received. Juror Shanley, Nancy
8 Shanley, juror number five, feels -- this is
9 what she told my court officer -- feels that
10 her nerves are such that she can't sit on
11 this trial.

12 What would you like me to do? Would
13 you like me to call her in here, to see what
14 the problem is?

15 MR. BRETTSCHEIDER: Yes.

16 (Whereupon Sworn Juror Number Five was
17 brought into the courtroom)

18 THE COURT: Good morning. My court
19 officer just tells me that you feel your
20 nerves are such that you cannot sit on this
21 trial?

22 JUROR #5: Yes.

23 THE COURT: Can you tell me what the
24 problem is.

25 JUROR #5: I really can't explain it.

1
2 Ever since I left here on Thursday, I can't
3 sleep. I don't think I can handle this. I
4 can't come to a definite decision.

5 THE COURT: Just step right outside the
6 door for a moment, while I confer with
7 counsel.

8 (Whereupon Juror #5 left the courtroom)

9 THE COURT: The juror seems in obvious
10 distress. Before I question her more, I
11 want to see if you both consent to excusing
12 her. She did indicate she doesn't think she
13 could reach a verdict.

14 MR. WALSH: I consent.

15 MR. BRETTSCHEIDER: We would, also.

16 THE COURT: Bring her in here.

17 (Whereupon Juror #5 was brought into
18 the courtroom)

19 THE COURT: Ms. Shanley, none of us
20 want you to be ill. All the participants
21 have consented to you being excused from the
22 case.

23 (Whereupon Juror #5 was excused)

24 MR. BRETTSCHEIDER: Your Honor,
25 there's a question now, with the way I

1
2 utilize my challenges. I have only two
3 challenges left. I think Mr. Walsh has
4 four. Based on the fact that she was juror
5 number five, a lot of challenges that I
6 utilized were based on the fact that we had
7 a certain amount of jurors.

8 I would ask for another challenge,
9 based on the fact that Ms. Shanley has asked
10 to be excused prior to the end of jury
11 selection.

12 THE COURT: Mr. Walsh?

13 MR. WALSH: I object. I don't think
14 the law provides for any additional
15 challenges for either attorney because a
16 juror becomes unqualified. I object. I
17 don't think it's appropriate.

18 THE COURT: The application is denied.

19 Let's bring in the sworn jurors and the
20 prospective panel outside.

21 It is my intention to tell the jury
22 that Ms. Shanley could no longer serve and
23 not go into any explanation.

24 Is everyone in agreement with that?

25 MR. WALSH: Yes.

1
2 MR. BRETTSCHEIDER: Yes,

3 THE COURT: All right. Let's bring in
4 the new panel.

5 (Whereupon the jury panel was brought
6 into the courtroom)

7 THE COURT: All right. We're just
8 waiting for our sworn jurors.

9 (Whereupon the sworn jurors were
10 brought into the courtroom)

11 THE COURT: Good morning. I apologize,
12 first of all, for my voice. There isn't too
13 much of it. I'm going to do the best I can.
14 Because I am so nasal.

15 If, at any time, you can't understand
16 what I'm saying, please raise your hand and
17 I'll have the court reporter read it back.

18 To my sworn jurors, first of all,
19 welcome. We were hoping to have a full
20 complement of jurors for you to begin the
21 trial this morning. Unfortunately, central
22 jury had very few jurors to send us on
23 Thursday afternoon. So that we could not
24 accomplish that. As you can tell, we have
25 now lost Ms. Shanley, who was unable to

1
2 serve.

3 Ladies and gentlemen, we are in the
4 middle of our jury selection. We have nine
5 sworn jurors. We are going to be selecting
6 three additional jurors, as well as three
7 alternate jurors.

8 My name is Judge Abbey Boklan. I am
9 the presiding Judge at this trial. I will
10 explain briefly what the trial involves, and
11 what roles the Judge and jury play. So just
12 relax, be comfortable. It's rather warm in
13 the courtroom. If any of you want to take
14 off your coats, please do so now. Anyone
15 who would like to, we'll take a moment for
16 you to do that.

17 The trial which is about to be
18 commenced is a criminal action, entitled the
19 People of the State of New York against
20 Joseph Jackson, who is referred to as the
21 defendant.

22 The case involves the following
23 charges: Murder in the second degree,
24 intimidating a victim or witness in the
25 first degree; and hindering prosecution in

1
2 the second degree. The alleged date of
3 incident is March 20, 1994. The alleged
4 victim of the murder is one Steven Jason.

5 As jurors, you are going to be called
6 upon to determine whether or not the
7 evidence which you shall hear and see in
8 this case establishes the defendant's guilt
9 of the charges beyond a reasonable doubt.

10 In order to do this, you will have to
11 evaluate all the evidence at the end of the
12 trial, to determine whether what you have
13 heard from the witnesses and seen as
14 exhibits is true, and what it all means.
15 This is called finding the facts. This will
16 be your function alone. I will find no
17 facts in this trial.

18 Your ultimate decision is called a
19 verdict. Your verdict will be either guilty
20 or not guilty.

21 An attorney presents the evidence
22 usually by calling witnesses; and only you
23 can decide what really happened. And the
24 verdict as to each of the counts remains
25 your decision alone.

1
2 As Judge, I will make no determination
3 of whether the defendant is guilty or not
4 guilty. My role at trial is to ensure that
5 you reach your verdict in accordance with
6 the law. I will explain to you what the law
7 is as to all the issues at this trial. I
8 may have to rule on questions concerning the
9 conduct of the trial. Those rulings have
10 nothing to do with whether the defendant is
11 guilty or not guilty. I may also rule on
12 questions concerning what evidence you may
13 consider, and for what purpose.

14 When I make a ruling concerning whether
15 you may hear some testimony or see some
16 exhibit which is offered as evidence, I will
17 be ruling on whether or not you are
18 permitted to hear it or see it, as a matter
19 of law.

20 Likewise, if I instruct you to
21 disregard something you might have heard, I
22 will do so because that is the law.

23 None of my rulings should be taken by
24 you as any indication of whether you should
25 believe all or part of what is offered as

1
2 evidence; or that the defendant is guilty or
3 not guilty. That is solely your job to
4 determine. But you must accept the law as I
5 give it to you, if the defendant and the
6 People are to have the fair trial to which
7 they are entitled.

8 The People are represented by the
9 District Attorney in this county, Mr. Denis
10 Dillon. Mr. Michael Walsh, an assistant
11 district attorney, who is now standing, will
12 be presenting the People's case.

13 The defendant is represented by his
14 attorney, Mr. Scott Brettschneider.
15 Mr. Brettschneider is now standing.

16 Sitting next to Mr. Brettschneider is
17 the defendant, Joseph Jackson. Mr. Jackson,
18 you may stand.

19 The fact that this action is brought in
20 the name of the People or that the evidence
21 is presented by a public official, does not
22 in any way indicate that the public wants a
23 specific verdict. The People of this state
24 are served by whatever verdict is justified
25 by the evidence.

1
2 You may hear reference to the fact that
3 the defendant was indicted by a grand jury.
4 This, too, is not and must not be taken as
5 any evidence of guilt. As a trial juror,
6 you may consider an indictment as simply a
7 piece of paper by which a defendant is
8 accused of a crime.

9 Only you as members of the trial jury
10 can determine guilt. The defendant is
11 presumed innocent unless and until you do
12 find him guilty.

13 Serving on a jury is a vital function
14 for citizens under our system of law. It is
15 also a great responsibility; that is, to
16 accord the defendant and the People a fair
17 trial.

18 In order to do so, you must be free
19 from any preconceived notions or any
20 sympathies or prejudices that might prevent
21 you from returning a fair and just verdict
22 based on solely the evidence or lack of
23 evidence. To help to ensure this, our first
24 order of business is to conduct an
25 examination of the prospective jurors.

1
2 I will ask questions of you, and after
3 I am finished, the attorneys for both
4 parties will ask questions, as well. The
5 purpose of the questions is not to embarrass
6 you, or to discover any personal details
7 about your lives. It is simply to determine
8 whether or not you are qualified to sit as
9 jurors in this case.

10 A number of you will not be selected.
11 Some of you may be excused because you are
12 not qualified to sit, as a matter of law.
13 That is called, excused for cause.

14 Others may be excused peremptorily,
15 which means by one of the attorneys, without
16 any cause being given.

17 Being excused is not a reflection on
18 you, either as a citizen or a person. It is
19 simply a determination under the rules by
20 one or more of the parties, or by me, that
21 you are not to sit on this particular case.

22 Now, let's talk about scheduling. I'm
23 sure this is something that interests all of
24 you. For the month of November, we are not
25 working on Fridays on this case. So you

1
2 will always have Fridays off. Of course, we
3 have the Thanksgiving holiday, and we will
4 not work on that day.

5 Now, how long will the trial take? The
6 attorneys have assured me that we should be
7 finished by mid-December. On a daily basis,
8 you have a schedule that I tried to fashion
9 to be as convenient to you as possible. At
10 the same time I try this case, I have my
11 regular calendar of approximately one
12 hundred fifty other cases. I handle those
13 the first thing in the morning. I have you
14 come in usually at eleven, except for the
15 day you deliberate. Your lunch time is
16 usually from twelve-thirty to two. I try to
17 have you out of the courthouse between
18 four-thirty and quarter of five, each day.

19 Because this is a criminal trial, at
20 the end of the trial, during final
21 deliberations -- and I'm only talking about
22 during final deliberations -- the jury is
23 sequestered, at all times. This means that,
24 should the jury continue to deliberate for
25 more than one day, then our law requires

1
2 that hotel accommodations be made available
3 and the jury be sequestered each night
4 before resuming their deliberations on each
5 following day.

6 Before I continue, I'm going to ask the
7 clerk to swear all the prospective jurors to
8 answer truthfully.

9 (Whereupon the entire jury panel was
10 sworn)

11 THE COURT: Before we start, I want to
12 make sure that none of you has any pressing
13 business or family obligations, or any
14 physical problems, such as heart disease,
15 that you feel this would be too difficult
16 for you to serve on this case. These are
17 the only things that would prevent you from
18 serving on this jury.

19 Please do not seek to avoid jury
20 service merely because it is inconvenient.
21 I regret the inconvenience. Our whole
22 system of trial by jury, one of the most
23 basic elements of our whole system of
24 justice, depends upon citizens who are
25 willing to sacrifice their time when called

1
2 upon to judge another person.

3 Understand also, that I will not be
4 excusing you from jury duty; only from this
5 case. If any of you cannot serve at this
6 time, please raise your hands now.

7 (Whereupon the following took place at
8 the Bench, in the presence of the Court, and
9 both counsel:)

10 PROSPECTIVE JUROR: W-H-A-L-E-N. I'm a
11 private duty nurse. My patient is on life
12 support. It would be extremely difficult
13 for them to get nurses to cover me.

14 THE COURT: You're already assigned to
15 a specific person?

16 PROSPECTIVE JUROR: I have been on the
17 case for five years.

18 THE COURT: You're excused.

19 Next.

20 PROSPECTIVE JUROR: Peter. D-I
21 C-A-P-U A. I am a real estate executive.
22 We're in the midst of doing budgets for next
23 year. I would not be able to serve through
24 the middle of December. Plus, I'm also a
25 foster parent with my wife. We have three

1
2 foster children with us right now. It's an
3 impossibility for being sequestered.

4 THE COURT: Excused. Next.

5 PROSPECTIVE JUROR: Your Honor, I'm a
6 practicing litigation and labor attorney. A
7 multi-week trial would render my practice
8 virtually impossible. I have discovery
9 deadlines. Also, even collective bargaining
10 negotiations on the -- with New York City
11 unions. I work for Coney Island Hospital.

12 THE COURT: You're excused. Next.

13 PROSPECTIVE JUROR: Carol Laris. My
14 spiritual beliefs would not make me a good
15 juror on a criminal case. I would find it
16 impossible to pass judgment on another human
17 being.

18 THE COURT: You're excused. Next.

19 PROSPECTIVE JUROR: Molly Friedman. I
20 can't be out of my job for this period of
21 time.

22 THE COURT: What kind of job?

23 PROSPECTIVE JUROR: Librarian at a high
24 school.

25 THE COURT: You get paid for your

entire jury service.

PROSPECTIVE JUROR: That's right. I have also the sole responsibility of a mentally ill --

THE COURT: That's different. You're excused. Next.

PROSPECTIVE JUROR: Andrew D-A-L-E-S-S-A N D R O. I have a hearing impairment in my left ear. I watch my two granddaughters and take them to school in the morning; prepare them. I have to be available for them at three-thirty. Plus I'm a self-employed business man.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: My name is Jacob Kaufman. I have heart problem. I'm currently taking part in vacation. I have a business of my own. Volunteering for the jury -- but to be sequestered, I couldn't to do that because of my business.

THE COURT: I'm more concerned -- before we get to that, you say have you have a heart problem?

PROSPECTIVE JUROR: Yes.

1
2 THE COURT: Would that give you stress?

3 PROSPECTIVE JUROR: Very much so.

4 THE COURT: You're excused. Next.

5 PROSPECTIVE JUROR: Dave Berger. I'm a
6 doctor. There's no way I can go past this
7 week. I heard you say, toward December.

8 THE COURT: What type of physician are
9 you?

10 PROSPECTIVE JUROR: Internist.

11 THE COURT: You have a private
12 practice?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: You're excused. Next.

15 PROSPECTIVE JUROR: Goldstein. I'm
16 saying kadish for my mother.

17 THE COURT: I'm sorry for your loss.
18 You're excused. Next.

19 PROSPECTIVE JUROR: Hanson. Two
20 things, your Honor. There's a two-man
21 repair shop. I'm the repairer.

22 THE COURT: You're excused. Next.

23 PROSPECTIVE JUROR: Kelly. I'm
24 self-employed. My son works for me. I have
25 another guy working. If I don't work,

nobody works.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: The only thing that concerns me is the deliberation period. I'm a single parent. It would be hard for me to find coverage for more than a day or two for my son.

THE COURT: I can tell you, it's very unlikely that it would be more than a day or two. I can't promise that. If you want to go, I'll excuse you. If you're willing to find coverage, we would love to have you.

PROSPECTIVE JUROR: I do want to serve. I feel it's my duty. I'm going with your initial, that it might not take more than two days.

THE COURT: Do you understand that once you're deliberating, you can't stop.

PROSPECTIVE JUROR: I understand. I'll take my chances.

THE COURT: Staying. Next.

PROSPECTIVE JUROR: My wife is currently on treatment for leukemia.

THE COURT: I hope she's better.

1
2 You're excused. Next.

3 PROSPECTIVE JUROR: I can't be
4 sequestered. I have a young child at home.

5 THE COURT: Nobody can take care of it?

6 PROSPECTIVE JUROR: Not overnight. I
7 am also scheduled for surgery December 16th.

8 THE COURT: You're excused. Good luck
9 with your surgery. Next.

10 PROSPECTIVE JUROR: Diana Prevett. I'm
11 a practicing attorney in this county, and
12 have been for about fifteen years. I also
13 have two small children. I think this would
14 be a problem for me.

15 THE COURT: Your husband --

16 PROSPECTIVE JUROR: He works in
17 Manhattan. He has --

18 THE COURT: Otherwise, when you're
19 deliberating, I'm very prompt.

20 PROSPECTIVE JUROR: I understand. But
21 I can't -- although, I get paid, I have to
22 go back to my office at lunch, and also,
23 after jury service, to get work done.

24 THE COURT: How young are your
25 children?

PROSPECTIVE JUROR: Six and nine.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: Rogers. I'm an only child. I have an extremely ill seventy-five year old father, who's on oxygen twenty-four hours a day.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: I'm a medical assistant, in an office. To take off that amount of time, being that I'm the only one that assists the doctor, is very difficult.

THE COURT: Would he pay you?

PROSPECTIVE JUROR: Only for a week's worth.

THE COURT: you're excused. Next.

PROSPECTIVE JUROR: Rand. I have plane tickets for Hawaii in December.

THE COURT: December what?

PROSPECTIVE JUROR: 23rd.

THE COURT: We'll be finished.

PROSPECTIVE JUROR: Also, I'm a substitute teacher, and I lose a lot of time from my job. If I don't go to work, I don't get paid.

1
2 THE COURT: Would it be a financial
3 hardship for you? Do you need that money?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: You're excused. Next.

6 PROSPECTIVE JUROR: I have school two
7 nights a week, at four-thirty. My finals
8 are in mid-December.

9 THE COURT: We could be in test time.
10 You're excused. Next.

11 PROSPECTIVE JUROR: I work in an office
12 where a lot of people have been out. One
13 person, specifically, is out having surgery.
14 I think I could be away for a week or two
15 weeks. I don't think I would be able to be
16 away for a month. I'm responsible for
17 everything in the office. We're a state
18 agency. We can't get --

19 THE COURT: What agency?

20 PROSPECTIVE JUROR: Vocational services
21 for individuals with disabilities.

22 THE COURT: Will they pay you the whole
23 time you're on jury duty?

24 PROSPECTIVE JUROR: I don't know how
25 that works. I guess.

1
2 THE COURT: I have a hold on state and
3 county employees; just as I am expected to
4 be called soon, for jury duty. Although my
5 courtroom would have to shut down, I go.
6 I'm not going to excuse you. If you find
7 out you won't be paid, you let us know. You
8 can check over lunch and tell me over lunch.
9 But if you get paid, you stay. Sorry.
10 Next.

11 PROSPECTIVE JUROR: Robert Kennedy.
12 Three things. One, I have a traffic Court
13 date this coming Thursday. Second thing is,
14 I'm in the heating business, which we're
15 exceptionally busy. Third thing is, I have
16 a vacation planned around Thanksgiving week.

17 THE COURT: The whole week?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: You're excused. Next.

20 PROSPECTIVE JUROR: Guzmanes. I have
21 difficulty understanding English.

22 THE COURT: You're excused. Next.

23 PROSPECTIVE JUROR: I'm --

24 THE COURT: Last name?

25 PROSPECTIVE JUROR: Renner. I'm a high

1
2 school teacher. I'm chair of my department.
3 One of my jobs is to organization support
4 for kids taking the ROTC in January, who
5 might fail, or might not graduate. I feel
6 it's important for me to be there, at this
7 time.

8 THE COURT: I keep all my teachers,
9 because they get paid. I'm sorry. Next.

10 PROSPECTIVE JUROR: O'Hara. Over the
11 last year and-a-half, I have had two
12 angioplasties at Saint Francis. I just
13 changed jobs --

14 THE COURT: You're excused. Next.

15 PROSPECTIVE JUROR: I have a two month
16 old son, who has had some cardiac surgery.
17 My wife -- he has to have additional tests
18 in the coming weeks.

19 THE COURT: You're excused. I hope
20 he's better. Next.

21 PROSPECTIVE JUROR: I'm self-employed.
22 I handle an account with the visiting nurse
23 association. I'm handling all of their --

24 THE COURT: I can't hear you.

25 PROSPECTIVE JUROR: All their marketing

1
2 and promotional things.

3 THE COURT: Excused. Next.

4 PROSPECTIVE JUROR: Next --

5 THE COURT: Last name.

6 PROSPECTIVE JUROR: Wendy P-A-R-R.

7 All next week, I have business meetings, in
8 Germany. Thanksgiving, I'm going to visit
9 family.

10 THE COURT: Have a good trip. Next.

11 PROSPECTIVE JUROR: Millie Diel. I
12 feel any long term jury trial would cause me
13 undue financial hardship. I have just
14 gotten employed again. I have been
15 unemployed for a while.

16 THE COURT: They won't pay you?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Excused. Next; last name.

19 PROSPECTIVE JUROR: Bass. I guess
20 because I can't be impartial, because my
21 cousin was murdered.

22 THE COURT: You're excused. Next.

23 PROSPECTIVE JUROR: Last name, Wahl. I
24 have substantial business commitments.
25 Staying that long would represent a real

hardship for me.

THE COURT: What type of work do you do?

PROSPECTIVE JUROR: I'm a commercial lending officer for Chase Manhattan bank.

THE COURT: Would you be paid?

PROSPECTIVE JUROR: Yes.

THE COURT: I'm keeping everyone who's getting paid or works for a large organization or government. Not excused. Next.

PROSPECTIVE JUROR: Hirsch. I'm my only means of support. I can't afford to be out of work that long.

THE COURT: You don't get paid?

PROSPECTIVE JUROR: Not for the whole time.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: Donald Mitchell. A few problems. I have heart angina and hypertension.

THE COURT: You're excused. Next.

PROSPECTIVE JUROR: Sharon Rabinowitz. I'm a physician over at Winthrop. I have

1
2 arranged for days of coverage.

3 THE COURT: Are you a resident?

4 PROSPECTIVE JUROR: No. I'm an
5 attending. My husband was an ADA with
6 Nassau County for four years. He trained
7 with Pat McCloskey. Ben Rabinowitz.

8 THE COURT: Do you feel you could be
9 fair?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Excused. Next.

12 PROSPECTIVE JUROR: Valerie Peekan.
13 I'm a public school teacher. It would be
14 difficult for me to be out of school.

15 THE COURT: Unfortunately, I'm keeping
16 all the my teachers. They get paid. It's a
17 wonderful experience to tell your children
18 about. You're not excused. Next.

19 PROSPECTIVE JUROR: I'm scheduled for
20 an echocardiogram and stress test.

21 THE COURT: You're excused. Next.

22 PROSPECTIVE JUROR: I have diabetes and
23 high blood pressure.

24 THE COURT: You're excused. Next.

25 PROSPECTIVE JUROR: Siebert. I'm a

1
2 practicing attorney. I have some major
3 conflicts coming up in the next three to
4 four weeks. I'm a sole practitioner.

5 THE COURT: You're excused. Next.

6 PROSPECTIVE JUROR: I'm a medical
7 doctor in private practice. I won't be able
8 to arrange coverage that lasts that long.

9 THE COURT: Did we get your last name?

10 PROSPECTIVE JUROR: Stern.

11 THE COURT: You're excused. Next.

12 PROSPECTIVE JUROR: Castellano. I
13 recently lost my job in the Chemical-Chase
14 merger. I just got a new one. To be here
15 more than a week is a problem.

16 THE COURT: Also for a bank?

17 PROSPECTIVE JUROR: An insurance
18 company.

19 THE COURT: You're excused. Next.

20 PROSPECTIVE JUROR: J-A-N-G-D-A. I'm a
21 medical Doctor. One month would be too
22 long.

23 THE COURT: Are you an attending?

24 PROSPECTIVE JUROR: Yes. Attending
25 physician, working in a hospital out-patient

1
2 clinic, and emergency room.

3 THE COURT: Are you a salaried
4 employee?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Nassau County Medical
7 Center?

8 PROSPECTIVE JUROR: No. In the Bronx.

9 THE COURT: Would they pay you for the
10 whole time?

11 PROSPECTIVE JUROR: No. Only for one
12 week.

13 THE COURT: You're excused. Next.

14 PROSPECTIVE JUROR: Jenks. I have
15 hypertension and arthritis.

16 THE COURT: You're excused. Next.

17 PROSPECTIVE JUROR: My name is
18 Sorenson. I am a commissioned salesman. I
19 receive no salary if I'm away from my job
20 for a month.

21 THE COURT: Excused. Next.

22 PROSPECTIVE JUROR: I know you. I'm
23 your mailman.

24 THE COURT: That doesn't matter.

25 PROSPECTIVE JUROR: Bob Donohoe.

1
2 THE COURT: Is that your only problem?

3 PROSPECTIVE JUROR: Well, all my family
4 is involved in law enforcement; my uncles,
5 cousins. I have been on jury duty several
6 others times. They have disqualified me.

7 THE COURT: That doesn't disqualify
8 you, unless you feel that you can't be fair
9 and impartial.

10 PROSPECTIVE JUROR: Well, that's the
11 way -- since I know them so personally, I
12 feel I'm going to weigh their decision more
13 than --

14 THE COURT: Then you're excused. Thank
15 you. Next.

16 PROSPECTIVE JUROR: S-C-H-W-A-M. I'm a
17 correction officers at the Nassau County
18 Jail.

19 THE COURT: You're excused. Next.

20 PROSPECTIVE JUROR: Hein. H-E-I-N. I
21 work as a secretary in a very large high
22 school in the guidance office. November and
23 December is like the busiest time of the
24 year.

25 THE COURT: Would you be paid when

1
2 you're here?

3 PROSPECTIVE JUROR: I'm paid. It would
4 be a very great hardship.

5 THE COURT: I know. I keep all my
6 school employees. Not excused.

7 PROSPECTIVE JUROR: But we process
8 hundreds of college applications at this
9 time.

10 THE COURT: They'll have to get a
11 substitute. I have to keep my people who
12 are paid.

13 PROSPECTIVE JUROR: It really would be
14 very hard. I'm practicing -- I'm training
15 somebody to do an application. It's very,
16 very difficult.

17 THE COURT: You're not the only person
18 in the office?

19 PROSPECTIVE JUROR: Yes. We're
20 shorthanded. We lost another girl.

21 THE COURT: I cannot let go people who
22 get paid. It'll be a hardship when I have
23 to shut down my courtroom and I have to go
24 on jury duty. This is what our system is
25 about. Next.

1
2 PROSPECTIVE JUROR: Muratore. I have
3 two medical appointments Thanksgiving week
4 that I cannot postpone.

5 THE COURT: We're closed the 28th and
6 29th.

7 PROSPECTIVE JUROR: One is for a
8 mammogram. The other is with my breast
9 surgeon.

10 THE COURT: You're excused. Next.

11 PROSPECTIVE JUROR: Saslow. I'm on
12 high blood pressure medication and
13 tranquilizers.

14 THE COURT: You're excused.

15 PROSPECTIVE JUROR: Does that mean
16 permanently?

17 THE COURT: No. Next.

18 PROSPECTIVE JUROR: Posen. I have two
19 small children. I have no way -- I have
20 them four days a week. I work, I'm a
21 teacher. To be off four days a week for an
22 entire month would be very difficult for me.

23 THE COURT: The working -- teachers,
24 I'm holding, because they get paid. You
25 don't have a husband at home?

1
2 PROSPECTIVE JUROR: Well, he works
3 until nine o'clock every night.

4 THE COURT: Your babysitter leaves at
5 four?

6 PROSPECTIVE JUROR: That's it.

7 THE COURT: Excused. Next.

8 PROSPECTIVE JUROR: Sebolt. I'm
9 pregnant. I would be having a lot of
10 problems.

11 THE COURT: You're excused. Next.

12 PROSPECTIVE JUROR: My son is
13 recuperating from a car accident. I have
14 been taking him for follow-up to his
15 accident. He almost died.

16 THE COURT: You're excused. Next.

17 PROSPECTIVE JUROR: Phillip. I'm an
18 attorney. I have discovery deadlines at the
19 end of December. I have discovery motion
20 for December 7th on another case.

21 THE COURT: There's no one else in the
22 office who can handle it?

23 PROSPECTIVE JUROR: I'm the senior
24 associate. This is a consideration that you
25 could take into account.

1
2 THE COURT: If it's a large firm, and
3 they can cover, I have been letting senior
4 practitioner attorneys go. Will they pay
5 you?

6 PROSPECTIVE JUROR: They will. Yes.

7 THE COURT: You're not excused. Next.

8 PROSPECTIVE JUROR: Presta. Time isn't
9 my problem. My son is a New York City
10 detective.

11 THE COURT: The next question is, can
12 you fairly sit in a criminal case?

13 PROSPECTIVE JUROR: I really don't
14 think so.

15 THE COURT: Thank you. You're excused.
16 Next.

17 PROSPECTIVE JUROR: My husband is an
18 officer in the Department of Defense. I
19 didn't know if I could serve on this. Also,
20 Judge, can I ask you, does this have
21 anything to do with drug-related?

22 THE COURT: You could hear something
23 about drugs during the course of the trial.
24 Would that affect your ability?

25 PROSPECTIVE JUROR: Yes.

1
2 THE COURT: If you heard, for example,
3 that the victim may have been dealing in
4 drugs, would you be able to sit fairly.

5 PROSPECTIVE JUROR: No.

6 THE COURT: Excused. Next.

7 PROSPECTIVE JUROR: Agasetta. My son
8 is in jail right now.

9 THE COURT: In Nassau County?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Upstate?

12 PROSPECTIVE JUROR: British West Indies,
13 Camen Island.

14 THE COURT: For what?

15 PROSPECTIVE JUROR: Drug smuggling.

16 THE COURT: Now, there could be
17 testimony during this case that, for
18 example, the victim may have been dealing
19 drugs. Is that going to affect you?

20 PROSPECTIVE JUROR: I really couldn't
21 say. I don't know how I would react.

22 THE COURT: I can't take the chance.
23 This must be very terrible for you. You're
24 excused.

25 PROSPECTIVE JUROR: It is. Thank you.

1
2 THE COURT: Next.

3 PROSPECTIVE JUROR: Z-A-N-O-N-E. I go
4 on vacation the 24th of November.
5 Otherwise, I have no problem. I have some
6 appointments in two weeks.

7 THE COURT: Have a good vacation.

8 PROSPECTIVE JUROR: Sefalou. I just
9 want to know if this had anything to do with
10 drugs.

11 THE COURT: There will be some evidence
12 perhaps, that you'll hear. For example, the
13 victim, the deceased person was dealing in
14 drugs.

15 PROSPECTIVE JUROR: Because I have two
16 family members that are very heavily
17 involved in drugs. I don't think I could be
18 unbiased.

19 THE COURT: You're excused. Next.

20 PROSPECTIVE JUROR: Bennett. I am a
21 veterinarian, private practitioner. I'm
22 self-employed. I have no employees. This
23 would be a hardship.

24 THE COURT: You're excused. Next.

25 PROSPECTIVE JUROR: Vitale. I have a

1
2 dear friend who's got breast cancer. I go
3 with her to LIJ twice a week for radiation
4 treatment.

5 THE COURT: You're excused.

6 (Whereupon the following took place
7 back within the hearing of the open
8 courtroom:)

9 THE COURT: Thank you all. As I said,
10 we couldn't function if we didn't have
11 jurors willing to sit.

12 I am going to ask those of you in the
13 box, to go into the back and just sit in the
14 vacant seats. We're going to fill the jury
15 box.

16 I ask those of you not called into the
17 box to please pay careful attention. Let's
18 fill the box.

19 (Whereupon the jury box was filled with
20 fourteen people)

21 THE COURT: My first series of
22 questions concerns your background. Your
23 answers to these questions will not
24 necessarily qualify nor disqualify you. If
25 any of you wishes to respond yes, or is not

1
2 sure, please raise your hand. If you don't
3 understand a question, or you do not hear
4 me, please say so.

5 The defendant, his attorney, the
6 prosecuting attorney have all been
7 identified to you. Do any of you know any
8 of the prospects -- any of the participants
9 to this proceeding?

10 Among the witnesses who may be called,
11 are the following -- and I caution you that
12 my mentioning the name, imposes no burden on
13 either side to call that witness; nor does
14 it mean that the list may not be expanded.

15 All of these police officers will be
16 from Nassau County Police Department, unless
17 I tell you otherwise: Detective Gary
18 Abbondandolo, Homicide Squad; Detective
19 Robert Dempsey, Homicide; Detective Jerl
20 Mullen, Homicide Squad; Detective Peter
21 Donato, Homicide Squad; Police Officer
22 Richard Paulik, Freeport Police Department;
23 Police Officer Michael Pomerico, Freeport
24 Police Department; Detective Joseph Marino,
25 Crime Scene Search Unit; Detective Nicholas

Mattia, Scientific Investigation Bureau;
Mr. Michael Hertz, a retired detective,
previously with the First Squad; Detective
Brian Parpan, Homicide Squad; Detective
Frank Allaire, First Squad; Detective
William Tweedie, First Squad; Detective
Edward Hegerty, Freeport Police Department;
Mr. William Wallace, a district attorney for
Nassau County District Attorney; Michael
DiMartino, Deputy Medical Examiner.
Mr. Christopher Jordan, Official Court
Reporter. Ms. Isabella Vales. Skwanitra
Witherspoon; Mr. Peddie Jenkins; Mr. Tyrone
Isaac, Roy Isaac.

Do any of you know any of the
prospective witnesses?

PROSPECTIVE JUROR: William Tweedie.

(Whereupon the following took place at
the Bench outside the hearing of the open
courtroom:)

THE COURT: Just to make sure we have
the same William Tweedie. Where do you know
him from?

PROSPECTIVE JUROR: I know him from a

1
2 restaurant I worked in. He frequented it.
3 He was a friend of the owner. We often sat
4 and ate dinner together.

5 THE COURT: Where was the restaurant
6 located?

7 PROSPECTIVE JUROR: Wantagh Avenue in
8 Wantagh.

9 THE COURT: Do you know where he lives?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Can you describe him?

12 PROSPECTIVE JUROR: Tall. He has, I
13 guess, greyish-blondish hair.

14 THE COURT: Age, approximately?

15 PROSPECTIVE JUROR: Late forties, early
16 fifties.

17 MR. WALSH: Is he heavysset?

18 PROSPECTIVE JUROR: I guess he's
19 probably around six foot tall, and medium
20 build. I won't say heavy.

21 MR. WALSH: It could be him.

22 THE COURT: Let's assume it's the right
23 person.

24 PROSPECTIVE JUROR: I know he's a
25 detective. He spoke often about his work.

1
2 THE COURT: You used to eat with him?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: I think it's best to excuse
5 you.

6 MR. WALSH: If it makes a difference or
7 not, I would say the chances of him
8 testifying are almost none.

9 THE COURT: It would have to be none.

10 MR. WALSH: Now, it's none. He's not
11 going to testify.

12 THE COURT: We have now eliminated
13 Mr. Tweedie. You can stay.

14 MR. WALSH: It would have been either
15 he or Donato.

16 (The following took place back within
17 the hearing of the open courtroom:)

18 THE COURT: Mr. Tweedie will no longer
19 be a witness in the case. Anyone else?
20 Does anyone know anything about the case,
21 other than what I have told you so far.

22 Mr. Blakley, you are a semi-retired
23 from sales. What type of sales were you
24 involved in?

25 PROSPECTIVE JUROR: I worked for

1
2 national business kit.

3 THE COURT: Your wife, what type or
4 firm or organization does she work?

5 PROSPECTIVE JUROR: A bank.

6 THE COURT: Tell me about victim of a
7 crime and witness to a crime.

8 PROSPECTIVE JUROR: My son was killed
9 eleven years ago by a hit and run.

10 THE COURT: Of course, that's a
11 horrible thing. Can you fairly and
12 partially sit in a murder case? There's no
13 allegation of any car.

14 PROSPECTIVE JUROR: Well, the trial was
15 here. It was eleven years ago. The
16 defendant was sentenced for six months and
17 five and-a-half years probation.

18 THE COURT: All of that considered,
19 let's start with the first question. Can
20 you sit fairly and impartially in a criminal
21 case involving a charge of murder?

22 PROSPECTIVE JUROR: I believe I can.
23 Yes.

24 THE COURT: Do you feel that there's
25 anything about the case or the way the

1
2 police handled it, or the district attorney,
3 that would, in any way, affect your ability
4 to be fair?

5 PROSPECTIVE JUROR: I don't really know
6 anything about the case.

7 THE COURT: Well, you know what the
8 charge is.

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: What I'm trying to ensure,
11 is that nothing in that incident involving
12 your child, or the trial afterwards, the
13 defendant in that case, nothing would carry
14 over to your feelings about this case?

15 PROSPECTIVE JUROR: No. I don't
16 believe it would.

17 THE COURT: Witness to a crime?

18 PROSPECTIVE JUROR: Armed robbery in a
19 supermarket in Brooklyn.

20 THE COURT: You witnessed that?

21 PROSPECTIVE JUROR: I was in the store
22 at the time.

23 THE COURT: Were you a victim, as well?

24 PROSPECTIVE JUROR: No. The people
25 that were holding up the store approached me

1
2 first; and then went on and held up the
3 store.

4 THE COURT: There are allegations in
5 this case that the death of the victim was
6 caused by a handgun. Do you have any
7 feelings about what happened in that
8 robbery, or guns in general, that would
9 determine your ability -- would affect your
10 ability to be fair in this case? You
11 understand that we're all against guns. The
12 issues is whether it --

13 PROSPECTIVE JUROR: I believe I could
14 be fair in this case.

15 THE COURT: What about law enforcement
16 people.

17 PROSPECTIVE JUROR: I have a nephew in
18 the Nassau County Police Department. I have
19 retired members of my family in the New York
20 City Police Department.

21 THE COURT: I tell you, as I do all
22 prospective jurors, that a police officer is
23 a human being. You don't decide to believe
24 or disbelieve anyone in advance because of
25 their occupation. You listen, you use your

1
2 common sense. You can listen to what they
3 say. Listen to their cross-examination, if
4 any. Use your common sense. You decide
5 whether you believe the person. You
6 shouldn't have any predisposition that
7 you're going to believe someone or not,
8 because of their occupation.

9 Can you do that?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Can the rest of you?

12 Mr. Beralisa, I'm having a problem
13 reading your writing. Your wife is
14 deceased?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Was she employed outside of
17 the home?

18 PROSPECTIVE JUROR: Machinist.

19 THE COURT: She was.

20 PROSPECTIVE JUROR: Nachinist.

21 THE COURT: Your wife.

22 PROSPECTIVE JUROR: My wife is dead.

23 THE COURT: I'm asking you, your wife,
24 before she died, did she work outside the
25 home.

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2 PROSPECTIVE JUROR: Worked in a store.

3 THE COURT: Do you understand what I'm
4 asking you.

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: You are a nachinist.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: I can't read what you wrote
9 for the question, seven, years of education
10 or highest degree attained. Was that high
11 school.

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: How long have you been in
14 the United States.

15 PROSPECTIVE JUROR: Sixteen years.

16 THE COURT: You will be able to
17 understand the English language, when the
18 witnesses testify?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: You checked that you never
21 served on a jury. You never sat on a jury.

22 PROSPECTIVE JUROR: No.

23 THE COURT: Then you checked yes, that
24 it reached a verdict. I'm a little
25 confused. Did you ever sit on a jury.

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2 PROSPECTIVE JUROR: No. This is my
3 first time.

4 THE COURT: Could you stay overnight,
5 if it was necessary, during deliberations,
6 in a hotel.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Ms. Jackson, tell me about
9 law enforcement.

10 PROSPECTIVE JUROR: My fiance is a New
11 York City police officer.

12 THE COURT: You heard what I said. Can
13 you judge every police officer as an
14 individual.

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: You're not going to be
17 concerned when you get to see your fiance,
18 after the trial, whether he's pleased or
19 displeased with your verdict.

20 PROSPECTIVE JUROR: Oh, no.

21 THE COURT: Ms. Bolan, what is an asset
22 recovery coordinator.

23 PROSPECTIVE JUROR: I bring machines
24 back from various warehouses around the
25 country, where we keep them when they come

1
2 out of major accounts.

3 THE COURT: What kind of machines.

4 PROSPECTIVE JUROR: Copiers and fax
5 machines.

6 THE COURT: Tell me about law
7 enforcement.

8 PROSPECTIVE JUROR: My uncle is a
9 retired motorcycle police officer in the
10 city. I have two cousins, one a DEA agent
11 in the city; and one a sergeant in Brooklyn.

12 THE COURT: Can you assure me that
13 there is nothing about any of those
14 relationships, or your friendships with any
15 of the police, including the one you
16 sometimes used to eat with, that will affect
17 your ability to be fair in this case.

18 PROSPECTIVE JUROR: I honestly don't
19 know.

20 THE COURT: If you don't know, I can't
21 chance it. Do you think you would be
22 affected and believe someone because of
23 their occupation?

24 PROSPECTIVE JUROR: I believe it could
25 be a possibility.

1
2 THE COURT: Thank you for telling us.
3 I can't take a chance. Fill the seat.

4 (Whereupon the vacant seat was filled)

5 THE COURT: I know when you came up to
6 the Bench, you initially asked to be excused
7 because of your occupation. I denied that.

8 But I see that you have a physical
9 problem, as well. Do you feel that the
10 medication and your physical condition could
11 be affected by being on this case?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: You're excused. I don't
14 want anyone to become ill.

15 (Whereupon the vacant seat was filled)

16 THE COURT: Ms. Carlson, do you know
17 any of the prospective witnesses, any of the
18 participants; anything about the case.

19 PROSPECTIVE JUROR: No.

20 THE COURT: Is there anything you
21 prefer to discuss privately at the Bench, on
22 your questionnaire.

23 PROSPECTIVE JUROR: No.

24 THE COURT: Victim of a crime.

25 PROSPECTIVE JUROR: My brother. He was

1
2 murdered in Manhattan, some years ago.

3 THE COURT: How long ago.

4 PROSPECTIVE JUROR: Twenty-six years.

5 THE COURT: You heard the charge in
6 this case. It's a murder case. Can you
7 fairly and impartially sit in that kind of
8 case, having had your brother murdered?

9 PROSPECTIVE JUROR: I think I could.

10 THE COURT: Tell me about accused or
11 convicted of a crime.

12 PROSPECTIVE JUROR: Accused and
13 convicted was also a brother, robbery.

14 THE COURT: Did the brother who was
15 convicted of robbery go to trial.

16 PROSPECTIVE JUROR: I'm not really sure
17 about that.

18 THE COURT: Anything in that experience
19 that would prevent you from being fair.

20 PROSPECTIVE JUROR: I don't believe so.

21 THE COURT: Was it here in Nassau
22 County, that that occurred?

23 PROSPECTIVE JUROR: No. It was in
24 Pennsylvania, I believe.

25 THE COURT: Do you have any feelings

1
2 about the police, because of either of those
3 incidents, the brother who was murdered or a
4 brother who was convicted of a robbery.

5 PROSPECTIVE JUROR: No.

6 THE COURT: Can you judge a police
7 officer the same as any other human being.

8 PROSPECTIVE JUROR: Absolutely.

9 THE COURT: Tell me about law
10 enforcement.

11 PROSPECTIVE JUROR: My nephew is a New
12 York City police officer.

13 THE COURT: Mr. Count, I'm going to
14 skip down to the question that you answered
15 about physical and mental condition. You
16 indicated that you have some physical
17 problem.

18 PROSPECTIVE JUROR: Yes. I think you
19 specified heart condition, initially. It's
20 not heart condition.

21 THE COURT: Is it something you feel
22 could be -- the condition could be damaged
23 by sitting on this case?

24 PROSPECTIVE JUROR: I'm not really
25 certain.

1
2 THE COURT: Would you prefer to discuss
3 it privately at the Bench?

4 PROSPECTIVE JUROR: Yes.

5 (Whereupon the following side bar
6 conference took place outside the hearing of
7 the open courtroom.)

8 THE COURT: Yes, sir?

9 PROSPECTIVE JUROR: Very simply. It's
10 a prostate situation that I just discovered.
11 I'm in the process of getting involved with
12 the VA, and all kinds of things.

13 THE COURT: Are you on medication?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Would you be needing
16 treatment during the time you're sitting in
17 this case?

18 PROSPECTIVE JUROR: No. That's why I
19 say it's an uncertain thing. It's something
20 that I'm trying to live with.

21 THE COURT: You have to tell me whether
22 physically you can stay or not. If you
23 feel, in any way, that you don't want to sit
24 because you're concerned about your health,
25 I'll let you go.

1
2 PROSPECTIVE JUROR: I would prefer
3 that.

4 THE COURT: All right. You're excused.
5 Next.

6 (Whereupon the following took place
7 back within the hearing of the open
8 courtroom:)

9 THE COURT: Ms. Rizzipolos, do you know
10 any anything about the case, any of the
11 witnesses or participants?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Tell me about victim of a
14 crime.

15 PROSPECTIVE JUROR: My father was in
16 his store when two people came in to
17 burglarize. Because he wouldn't give them
18 the merchandise, they hit him on the head
19 with a gun. He was almost killed.

20 THE COURT: Would that affect your
21 ability to sit in a criminal case.

22 PROSPECTIVE JUROR: I believe it will.

23 THE COURT: You're excused.

24 (Whereupon the vacant seat was filled)

25 THE COURT: Ms. Ruggerio, do you know

1
2 anything about the case; any of the
3 prospective witnesses or any of the
4 participants?

5 PROSPECTIVE JUROR: No.

6 THE COURT: What do you teach.

7 PROSPECTIVE JUROR: Elementary school
8 in Copiague.

9 THE COURT: I see your husband is a
10 police officer. Is he a police officer in
11 Nassau County.

12 PROSPECTIVE JUROR: No.

13 THE COURT: Will you be able to judge a
14 police officer the same as any other human
15 being that takes the stand?

16 PROSPECTIVE JUROR: I believe so.

17 THE COURT: The attorneys may have some
18 further questions about that, because of
19 semantics. I believe so, as opposed to,
20 yes, I will. I'm sure they are going to
21 want you to assure them.

22 Can you assure me you would be able to
23 judge the police officer the same as anyone
24 else who takes the stand?

25 PROSPECTIVE JUROR: I believe so.

1
2 THE COURT: You're not going to be
3 concerned, no matter what your verdict is,
4 whether it's going to please or displease
5 your husband, or anyone else?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Tell me about victim of a
8 crime.

9 PROSPECTIVE JUROR: I was mugged a
10 couple of years ago.

11 THE COURT: Anyone apprehended?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Would that affect your
14 ability to be fair?

15 PROSPECTIVE JUROR: In some way. I was
16 angry.

17 THE COURT: Well, you should be.
18 That's very normal. But of course, this
19 case and Mr. Jackson had nothing to do with
20 that. I have to be assured that how you
21 felt, justifiably, about the person who did
22 that to you, won't carry over to this case.

23 PROSPECTIVE JUROR: No.

24 THE COURT: Any law enforcement people,
25 in addition to your husband.

1
2 PROSPECTIVE JUROR: My father is a
3 police officer.

4 THE COURT: You still believe you could
5 be fair and impartial.

6 Ms. Telese, you're a sales
7 representative for what type of a firm?

8 PROSPECTIVE JUROR: Magazines.

9 THE COURT: I see that your husband is
10 a New York City detective. Same question as
11 I asked the juror before you: Can you
12 fairly and impartially sit in a case and
13 judge a police officer the same as any other
14 human being.

15 PROSPECTIVE JUROR: No; I don't think
16 so. I think I would favor the police
17 officer.

18 THE COURT: Even before you listened to
19 them?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Thank you for telling us.
22 You're excused.

23 (Whereupon the vacant seat was filled)

24 THE COURT: Do you know any of the
25 participants, anything about the case, any

1
2 of the prospective witnesses?

3 PROSPECTIVE JUROR: No.

4 THE COURT: You sat on a civil case.
5 You can see already how different it is,
6 Mrs. Janow. I'm just asking you to put that
7 aside and judge this case.

8 PROSPECTIVE JUROR: No problem.

9 THE COURT: I see you have a relative
10 or friend who is a corrections officer.
11 Would that affect your ability to be fair?

12 PROSPECTIVE JUROR: No.

13 THE COURT: You would judge a law
14 enforcement official the same as any other
15 human being?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Mr. Westfall, you are a
18 police officer.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: You're a police officer in
21 Nassau County?

22 PROSPECTIVE JUROR: No.

23 THE COURT: In the city.

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Can you fairly and

1
2 impartially sit on a criminal case,
3 involving -- you heard the list?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: An awful lot of police
6 officers will testify.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: You can.

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Can you judge the police
11 officers the same as anyone else? Will you
12 listen and use your common sense?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Tell me about victim of a
15 crime.

16 PROSPECTIVE JUROR: I had a girlfriend
17 four years ago, that had a chain snatched.

18 THE COURT: Anything in that experience
19 would that would affect you.

20 PROSPECTIVE JUROR: No.

21 THE COURT: Witness to a crime, is that
22 your capacity as a police officer?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Do you work in the Homicide
25 Squad.

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PROSPECTIVE JUROR: No.

THE COURT: The law enforcement people are all friends that you work with, and associates?

PROSPECTIVE JUROR: Yes.

THE COURT: Mr. Kalow, you were one of our slightly unhappy jurors about remaining because of your job. I want to make sure those job concerns will not affect your ability to listen; that you won't be worrying about what's happening there, you won't be worrying about whether things are getting done, and will allow those kinds of concerns to affect you.

PROSPECTIVE JUROR: I'll be worrying about them. I won't let them affect me.

THE COURT: Is there anything you prefer to discuss privately?

PROSPECTIVE JUROR: No.

THE COURT: Start with victim of a crime.

PROSPECTIVE JUROR: I got mugged a long time ago, when I was in college.

THE COURT: Anyone apprehended?

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PROSPECTIVE JUROR: No.

THE COURT: Would that affect your ability to be fair?

PROSPECTIVE JUROR: No.

THE COURT: Tell me about accused or convicted of a crime.

PROSPECTIVE JUROR: I had an uncle who was accused of bookmaking and he went to jail.

THE COURT: How long ago.

PROSPECTIVE JUROR: I would say about ten years.

THE COURT: Was that here in Nassau County?

PROSPECTIVE JUROR: No.

THE COURT: Do you have to any feelings about the Police Department or district attorney's office that would carrying over to this case?

PROSPECTIVE JUROR: No.

THE COURT: Mr. Cargetta, tell me about victim of a crime.

PROSPECTIVE JUROR: I had a cousin that was robbed of three hundred dollars.

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2 THE COURT: Anyone apprehended?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Would that affect your
5 ability to be fair?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Are you in college now?

8 PROSPECTIVE JUROR: Not this semester.

9 THE COURT: When you were, what was
10 your field of specialty?

11 PROSPECTIVE JUROR: Electrical
12 engineering.

13 THE COURT: I'm going to skip down to
14 the bottom, Ms. Neis. You indicate that
15 your ability to stay would depend upon the
16 night. I can't guarantee the night.

17 Whenever it occurs, that's when it occurs.
18 Will you be able to stay and deliberate --

19 PROSPECTIVE JUROR: The problem is, I
20 teach at nights. I teach computers. The
21 people I work for don't understand it. They
22 wouldn't be able to teach it. With the
23 holidays coming up, they can't cancel the
24 class. My only concerns is that --

25 THE COURT: It's a real concern. You

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2 have to be willing to stay with us whenever
3 it would occur.

4 PROSPECTIVE JUROR: I guess I would
5 have no choice.

6 THE COURT: Are you willing to do that?

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: Ms. Renner, you had come up
9 to the Bench. You were concerned about the
10 young people you teach. I told you I keep
11 my teachers because they get paid.

12 I also want to be sure that you're not
13 going to be the kind of juror who will be so
14 concerned about what's happening back at
15 school, that you will be distracted or be
16 watching the clock, or hurrying your verdict
17 because of it.

18 PROSPECTIVE JUROR: I won't.

19 THE COURT: What type of sales is your
20 husband in.

21 PROSPECTIVE JUROR: He was in. Selling
22 Xerox.

23 THE COURT: Victim of a crime.

24 PROSPECTIVE JUROR: My home was
25 burglarized.

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THE COURT: Anyone apprehended.

PROSPECTIVE JUROR: No.

THE COURT: Would that affect your ability to be fair.

PROSPECTIVE JUROR: No.

THE COURT: You have a relative in law enforcement?

PROSPECTIVE JUROR: My brother-in-law is a New York City policeman.

THE COURT: Would that affect your ability to be fair?

PROSPECTIVE JUROR: No.

THE COURT: Would you judge the police officers as any other human being who takes the stand?

PROSPECTIVE JUROR: Yes.

THE COURT: Ms. Acuri, tell me about law enforcement.

PROSPECTIVE JUROR: My cousin is a cop in the city.

THE COURT: Would you be affected by that?

PROSPECTIVE JUROR: No.

THE COURT: Would you judge the police

1
2 officers as anyone else who takes the stand?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Mrs. Thompson, your
5 occupation prior to retirement?

6 PROSPECTIVE JUROR: Bank worker.

7 THE COURT: Anything that you prefer to
8 discuss privately.

9 PROSPECTIVE JUROR: Yes.

10 (Whereupon the following side bar
11 conference took place outside the hearing of
12 the open courtroom:)

13 THE COURT: Tell me about crimes.

14 PROSPECTIVE JUROR: I'm willing to
15 serve. I don't know if I would be accepted.
16 The crime is about twenty years ago in the
17 bank. My bank guard was shot. I witnessed
18 it. He died six weeks after. I went to
19 Court and the convict was put away for life.

20 THE COURT: Would you be affected by
21 that?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Let's go to accused of a
24 crime.

25 PROSPECTIVE JUROR: My son was picked

1
2 up with a cellular phone a couple of years
3 ago. It was his friend's phone. He
4 wouldn't tell about the friend. I think the
5 case was dismissed. He had to pay for the
6 phone. That was it.

7 THE COURT: Would that, in any way,
8 affect your ability to be fair?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Was it in Nassau County.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Were the Nassau County
13 police involved?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Do you have any feelings
16 about the police?

17 PROSPECTIVE JUROR: No.

18 THE COURT: What about the district
19 attorney's office?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Do you feel your son was
22 fairly treated?

23 PROSPECTIVE JUROR: I think so.

24 THE COURT: Any questions?

25 MR. WALSH: You think your son was

1
2 treated fairly by the police?

3 PROSPECTIVE JUROR: I think so. There
4 was some thought whether he should have been
5 searched, because he was just driving his
6 Jeep. He was picked up. He didn't know
7 they were policemen. They were plain
8 clothes men. But I don't know. I maintain
9 that if he were in school, that wouldn't
10 have happened.

11 MR. WALSH: Okay.

12 How far did that case actually go?

13 PROSPECTIVE JUROR: It went to Court.
14 He was discharged. He had to pay for the
15 phone. The case was dismissed.

16 MR. WALSH: That was in Nassau County.

17 PROSPECTIVE JUROR: Yes.

18 MR. WALSH: How do you feel he was
19 treated by the district attorney's office.

20 PROSPECTIVE JUROR: It was fine. I
21 think they wanted him to give a source.
22 They kept on asking for a source, source,
23 source. He just said he knew nobody. It
24 was his friend's phone.

25 From that point of view, he said, I

1
2 can't call my friend's name. I don't want
3 to get him in trouble. I think he was
4 fairly treated.

5 THE COURT: Any questions?

6 MR. BRETTSCHEIDER: No.

7 THE COURT: All right.

8 (Whereupon the following took place
9 back within the hearing of the open
10 courtroom:)

11 THE COURT: Mrs. Reisch, were you ever
12 employed outside of the home?

13 PROSPECTIVE JUROR: Many years ago.

14 THE COURT: What did you do.

15 PROSPECTIVE JUROR: I worked for a
16 weekly newspaper.

17 THE COURT: Tell me about victim of a
18 crime.

19 PROSPECTIVE JUROR: My parked car was
20 broken into, and some things stolen. My
21 house was burglarized.

22 THE COURT: Anyone apprehended in
23 either case?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Anything in those incidents

1
2 that would affect your ability to be fair?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Mrs. Feine, you're a
5 program analyst for what type of firm?

6 PROSPECTIVE JUROR: Insurance company.

7 THE COURT: Prior to your husband's
8 death, what type of work did he do?

9 PROSPECTIVE JUROR: He was in
10 computing, also.

11 THE COURT: You have a child that's an
12 attorney. Male or female.

13 PROSPECTIVE JUROR: Female.

14 THE COURT: Does she practice in the
15 field of criminal law?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Has she ever discussed with
18 you criminal law or procedure?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Tell me about victim of a
21 crime.

22 PROSPECTIVE JUROR: Three, actually.
23 My car was broken into. I was mugged. My
24 home was burglarized.

25 THE COURT: Anyone apprehended.

PROSPECTIVE JUROR: No.

THE COURT: Would those incidents, in any way, affect your ability to be fair in this case?

PROSPECTIVE JUROR: No.

THE COURT: We're going to stop now. I'm going to read you some admonitions, ladies and gentlemen.

Do not discuss the case amongst yourselves or with others.

Do not read or listen to any accounts or discussions of the case reported by newspaper or any other news media.

Do not visit or view the premises or any place where the offenses charged were allegedly committed, or any other premises or place involved in the case.

Promptly report to the Court any incident involving any attempt by any person to influence any member of the jury or to discuss the case.

Do not form any opinions. Keep an open mind until the case is completed.

We'll see all of you at two. Bring

1
2 your questionnaires back with you.

3 Actually, everyone except for the sworn
4 jurors, two o'clock, outside of this
5 courtroom.

6 (Whereupon the sworn jurors and
7 prospective jurors left the courtroom)

8 THE COURT: All right, two o'clock,
9 everyone.

10 MR. WALSH: Yes, Judge.

11 (Whereupon there was a luncheon recess)
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A F T E R N O O N S E S S I O N

THE CLERK: People vs. Joseph Jackson.

Are the People ready?

MR. WALSH: Yes.

THE CLERK: Is the defendant ready?

MR. BRETTSCHEIDER: Yes.

THE COURT: All right. Please bring
the panel in.

(Whereupon the jury panel was brought
into the courtroom)

THE COURT: While we're waiting for our
sworn jurors, Ms. Renner, did you want to
discuss something with me?

PROSPECTIVE JUROR: Yes.

(Whereupon the following side bar
conference took place outside the hearing of
the open courtroom:)

PROSPECTIVE JUROR: I have to say, I'm
torn. I reconsidered the question you asked
about, will I be so concerned about my work
that I won't be able to put my mind
completely here. I feel I would be so
concerned about my work.

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2 THE COURT: All right. Then I'm going
3 to excuse you. I can't have someone whose
4 mind he is elsewhere.

5 PROSPECTIVE JUROR: Thank you very
6 much.

7 (Whereupon the following took place
8 back within the hearing of the open
9 courtroom:)

10 THE COURT: Please fill the seat.

11 (Whereupon the sworn jurors were
12 brought into the courtroom)

13 (Whereupon the vacant seat was filled)

14 THE COURT: I remember you had come up
15 to the Bench, and indicated your business
16 concerns. After Ms. Renner had time over
17 the luncheon recess to think about it, she
18 thought her mind would be elsewhere because
19 she would be so concerned about her business
20 while we were in the course of this trial.
21 I want to make sure you have no such
22 problems.

23 PROSPECTIVE JUROR: That wouldn't be
24 the case with me.

25 THE COURT: Have you ever practiced in

1
2 the field of criminal law, yourself.

3 PROSPECTIVE JUROR: No, I haven't. My
4 wife did.

5 THE COURT: You also, of course, in
6 becoming an attorney, had criminal
7 procedure, criminal law, constitutional law.
8 I just want to make sure there would be no
9 problems, that you would become a legal
10 adviser to the jury, if chosen. No problems
11 with that?

12 PROSPECTIVE JUROR: I wouldn't have a
13 problem.

14 THE COURT: Tell me about victim of a
15 crime.

16 PROSPECTIVE JUROR: I was mugged on a
17 New York City subway in 1988; lost three
18 dollars. Didn't even report it to the
19 police.

20 THE COURT: Would that incident affect
21 you in this case?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Do you know any of the
24 participants, anything about the case; other
25 than what we have told you?

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2 PROSPECTIVE JUROR: No, I do not.

3 THE COURT: Now, ladies and gentlemen,
4 we're all back together again. Do any of
5 you have any business pending before the
6 district attorney's office or the Police
7 Department?

8 As jurors, your verdict must be
9 unanimous. Twelve jurors seldom agree
10 immediately. And you will therefore be
11 called upon to deliberate.

12 Can you all promise the parties that at
13 the time the deliberations begin, you will
14 express your views, listen to the views of
15 your fellow jurors and keep an open mind?
16 Can you all do that; everyone?

17 Do any of you know any reason that you
18 can't fairly and impartially sit in this
19 case? Anyone?

20 PROSPECTIVE JUROR: I think I might
21 have a preconceived idea.

22 THE COURT: I'm going to excuse you.
23 You're excused. Fill the seat, please.

24 (Whereupon the vacant seat was filled)

25 THE COURT: Ms. Gladstone, do you know

1
2 anything about the case; any of the
3 prospective witness or the participants?

4 PROSPECTIVE JUROR: No.

5 THE COURT: I see you're an attorney.

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Have you ever practiced in
8 the field of criminal law?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: What type of work did you
11 do?

12 PROSPECTIVE JUROR: Criminal work in
13 Manhattan.

14 THE COURT: Can you assure me that from
15 all of your experiences, that you would be
16 fair and impartial in this case; and not
17 favor one side or another?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: You will not become the
20 legal adviser to the jury?

21 PROSPECTIVE JUROR: No.

22 THE COURT: As well, you know,
23 sometimes, the law can change even in
24 twenty-four hours. Even if you think I'm
25 wrong, you must take the law as I give it to

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you. No problem with that?

PROSPECTIVE JUROR: I understand.

THE COURT: Does your husband practice in the field of criminal law?

PROSPECTIVE JUROR: No.

THE COURT: Tell me about witness to a crime.

PROSPECTIVE JUROR: My friend was, her wallet was taken from her on the street.

THE COURT: Will that incident affect you in this case?

PROSPECTIVE JUROR: No.

THE COURT: What about law enforcement people?

PROSPECTIVE JUROR: My son-in-law is a police officer in Ohio.

THE COURT: Can you judge a police officer the same as any other human being who takes the stand.

PROSPECTIVE JUROR: Yes. Your Honor, I have a trial scheduled to begin December 2nd. I don't know -- that's in Civil Court in Manhattan.

THE COURT: This will take precedence

1
2 over that. All right.

3 You would be actively engaged as a
4 juror, if you are chosen.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: Any problems with the
7 Judge, you let me know. Can you be a fair
8 and impartial juror in this case?

9 PROSPECTIVE JUROR: Yes, I can.

10 THE COURT: My second series of
11 questions concerns your willingness to
12 follow my instructions on the law.

13 In order to be jurors in the case, you
14 do not have to know anything about the law.
15 As you saw, I told the attorneys who do know
16 the law, they must put it aside and take the
17 law as I give it to them. It is my function
18 to explain the law. It is your function to
19 determine the facts and apply the law to
20 those facts; thereby rendering a fair and
21 just verdict.

22 If you are selected as jurors, I will
23 explain the law to you in detail, at the end
24 of the case. But it is important to know at
25 this stage, that you will follow the law as

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2 I give it to you. I will therefore describe
3 a few basic principles to make sure that you
4 can follow them.

5 Every person accused of a crime is
6 presumed innocent. That is, he stands
7 innocent in the eyes of the law. The People
8 must rebut this presumption, if they can, by
9 the presentation of evidence which convinces
10 you beyond a reasonable doubt of the
11 defendant's guilt.

12 In a criminal case, the burden of proof
13 is on the People, and remains on the People
14 throughout the trial. The defendant is not
15 required to prove or disprove anything.
16 Mr. Brettschneider, if he so desired, could
17 sit there silently throughout the trial.
18 Can you all accept the presumption of
19 innocence?

20 I will explain to you at the close of
21 the case exactly what reasonable doubt
22 means. But you will be required to acquit
23 if, at the end of the case, because of the
24 evidence or lack of evidence presented to
25 you, you have a reasonable doubt as to

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2 guilt. This is a higher standard than those
3 of you who sat in a civil case applied
4 there.

5 Are there any of you who, in your own
6 mind, cannot require that the defendant be
7 proven guilty beyond a reasonable doubt
8 before you would convict? Anyone?

9 Now, the People are not obligated to
10 prove guilt beyond all doubt. Nothing in
11 life is absolutely certain. Are there any
12 of you who would hold the People to a higher
13 standard of proof than that required by law?

14 Your job in this case will end when you
15 determine whether or not the defendant has
16 been proven guilty. If the defendant is to
17 be punished, punishment would be a job for
18 the Court exclusively, and the jury has no
19 role to play. You're not permitted to
20 consider the possibility of punishment in
21 your deliberations. And you may not include
22 any recommendations as to sentence in your
23 verdict.

24 Are there any of you who feel that you
25 cannot render your verdict free from

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2 sympathy, without considering the
3 possibility of punishment?

4 Under our system of law, the defendant
5 is not obligated to take the witness stand
6 or call any witnesses, or explain his
7 actions in any way. You must not draw any
8 inference unfavorable to the defendant from
9 this fact.

10 Are there any of you who will or might
11 allow the fact that the defendant may not
12 testify to influence you in your
13 deliberations?

14 It is not essential that you agree with
15 or like these principles of law as I have
16 set them forth. Under my oath, I must
17 instruct you as to the law as I understand
18 it to be. Under your oath as jurors, you
19 must accept the law as I explained it to
20 you. Can you all do that?

21 You have heard us mention that a police
22 officer is the same as any other human being
23 who takes the stand. Do any of you have any
24 feelings about the police that would lead
25 you to give a police officer's testimony any

greater or any lesser weight, without even listening?

As I told you, we have already got nine jurors. We're going to pick three more and three alternates. If one of you is excused by the Court, or on request of either of the attorneys, please do not regard that as a personal affront or a disparaging gesture on the part of counsel or the Court. Understand that the selection of jurors, is a longstanding selection and based upon recognized principles of justice.

Therefore, I ask you to continue to participate in this process of jury selection in accordance with the terms and spirit of the oath which you have all taken. Those of you who will be selected must be prepared to sit on the case for as long as the trial may last, and until a verdict is rendered.

You will now be asked various questions by the attorneys, starting with the assistant district attorney. Their questions like mine, are only designed to

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2 determine whether they think you are
3 qualified to sit in this case. If they
4 inadvertently ask a question which is
5 embarrassing or very personal to you, you
6 may say so.

7 If the question is not proper, I will
8 tell you that you do not have to answer it.
9 If the answer involves some personal
10 information, I will permit you to answer it
11 in private, rather than in open Court.

12 You are sworn to tell the truth and
13 must answer every question truthfully,
14 unless I rule that it is not necessary to
15 answer.

16 The attorneys now will be starting to
17 question you. They have a time limit. They
18 are allowed twenty minutes the first round
19 and fifteen minutes every round thereafter.
20 I will give them one minute's notice.

21 MR. WALSH: My name is Michael Walsh.
22 I'm an assistant district attorney. My
23 responsibility in this case is to present
24 the evidence to you on behalf of the People
25 of the State of New York.

1
2 With apologies to our sworn jurors, who
3 have heard this about three or four times,
4 there is something that I like to say to
5 each new panel as you come in. That is,
6 that during this process, there are no right
7 or wrong answers to the questions that we
8 ask you. Whether it's myself or
9 Mr. Brettschneider, or Judge Boklan, who was
10 asking the questions. The only good answer
11 that any of you can give us, is the most
12 honest and candid one you possibly can.
13 Many people feel that this is the most
14 important part of a criminal trial. We are
15 attempting to pick from among you, twelve
16 people who can truly be fair and impartial
17 to both sides in this case. It's only
18 through the selection of twelve fair and
19 impartial jurors that the system actually
20 works. Without twelve fair and impartial
21 jurors, the rest of the trial can become a
22 waste of time.

23 So what I would ask of you is that you
24 resist the temptation, if it creeps in, to
25 give us answers that you think we might want

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2 to hear; or to tell us what you think the
3 right answer might be. Please be as honest
4 and candid as you possibly can. It's only
5 in that way that we can truly pick a jury
6 that's going to give both sides a fair
7 trial.

8 Everybody heard Judge Boklan read
9 through the indictment, or at least outline
10 what the charges were. Is there anybody
11 among you who feels that based upon the
12 nature of the charges, that they would have
13 a difficult time sitting on this jury or
14 being a fair and impartial juror?

15 PROSPECTIVE JUROR: Can you go through
16 the charges?

17 MR. WALSH: The defendant is charged in
18 the indictment that Judge Boklan referred
19 to, with murder in the second degree,
20 hindering prosecution in the second degree,
21 and intimidating a witness or a victim in
22 the first degree.

23 Knowing that, or having heard that
24 again, does that cause you any problems?

25 PROSPECTIVE JUROR: Well, intimidating

1
2 does a little bit. It just bothers me.

3 MR. WALSH: Okay. I guess what I'm
4 really -- does it cause you any problems as
5 far as being fair and impartial to one side
6 or the other? It should bother you. Nobody
7 in this courtroom is in favor of any of the
8 charges in the indictment. It's good that
9 it bothers you.

10 PROSPECTIVE JUROR: I just wonder where
11 it comes from. Something had to happen
12 there, for that charge to even come about.

13 MR. WALSH: Any time a defendant walks
14 into a courtroom and is charged with a
15 crime, that's true of any defendant.
16 Anybody who is here.

17 Does the fact that the defendant is
18 sitting here in this chair, in any way, mean
19 that he's guilty or not guilty of the
20 charges against him? In other words, Judge
21 Boklan explained to you that right now, as
22 the defendant sits here, he's presumed
23 innocent. You have to apply that
24 presumption of innocence.

25 Does the fact that he was charged with

1
2 a crime in an indictment, cause you in any
3 way to be unable to apply that presumption?

4 PROSPECTIVE JUROR: Well, I guess not
5 yet.

6 MR. WALSH: That's what we ask.
7 Basically, as you sit here, do you feel that
8 you could be fair and impartial to each
9 side. And whatever your -- say you're
10 chosen as a juror -- whatever your verdict
11 is in the end of the case, do you feel you
12 could give us your assurance that whatever
13 it is, it is based on the evidence and
14 nothing else?

15 PROSPECTIVE JUROR: Sure.

16 MR. WALSH: Anybody else? I think it
17 was on last Thursday, which was the last day
18 we were actually in the courtroom, one of
19 the prospective jurors said they would have
20 a difficult time with the responsibility of
21 finding someone guilty or not guilty, such
22 that they felt they couldn't serve. Does
23 anyone else feel that way? As I have asked
24 Mrs. Petrico, and I'll ask everybody the
25 same question, whatever your verdict might

1
2 be, if you're chosen as a juror, can you
3 each assure me that your verdict will be
4 based on the evidence and nothing else,
5 other than the evidence?

6 Everybody heard the witness list read
7 by the Judge. I think over half of the
8 witnesses were -- or prospective
9 witnesses -- were police officers. I know
10 that a number of you have friends or
11 relatives in the Police Department. We have
12 one police officer on our panel. In my
13 opinion, really, the central question, when
14 you're talking about the testimony of a
15 police officer is, whether or not any of you
16 believe that a police officer, just by
17 virtue of the fact that they're a police
18 officer and wear a gun and a badge, are any
19 more or less likely to be truthful as
20 witnesses on the witness stand. To me,
21 that's the most important question there is.
22 Ms Ruggerio, I am going to start with you.
23 The way we left it this morning, was that
24 you believed you could be fair and
25 impartial. I'm going to try to push a

1
2 little bit. Ultimately, understanding your
3 answer may be, I believe so.

4 PROSPECTIVE JUROR: I'm questioning
5 myself. Because I want to be fair and
6 impartial. I just know so much of what I
7 hear is very biased toward one side. I feel
8 a little bit uncomfortable. I would hope
9 that I would be. That's why I said I
10 believe so.

11 MR. WALSH: Let me get your gut
12 reaction to the question I just asked. Do
13 you feel that a police officer, just by
14 virtue of the fact that they're a police
15 officer, is any more likely to tell the
16 truth when they get up on the witness stand
17 than anyone else?

18 PROSPECTIVE JUROR: I believe so.

19 MR. WALSH: Why is that.

20 PROSPECTIVE JUROR: Because they take
21 an oath when they become a police officer,
22 to serve. Although, I know that's not one
23 hundred percent the case. It's my position,
24 if they took the oath, they should hold it
25 seriously.

1
2 MR. WALSH: Mr. Westfall, how about
3 yourself? You're a New York City police
4 officer. Are you assigned to any particular
5 squad or unit?

6 PROSPECTIVE JUROR: Actually, now, I'm
7 in charge of the auxiliary police in the
8 Borough of Queens.

9 MR. WALSH: Do you feel a police
10 officer who gets up on the witness stand is
11 any more likely or less likely to tell the
12 truth?

13 PROSPECTIVE JUROR: I feel I have no
14 problem with that. Are you asking me --

15 MR. WALSH: In general, do you think a
16 police officer is any more likely to tell
17 the truth when they get up on the stand?

18 PROSPECTIVE JUROR: No.

19 MR. WALSH: That's really what I'm
20 getting at. They're human beings like
21 anybody else. They have the same frailties
22 as anyone else. A police officer isn't
23 going to start off up here, and somebody
24 else down here?

25 PROSPECTIVE JUROR: No.

1
2 MR. WALSH: Anybody else -- let me just
3 generally ask this question, Ms. Gladstone.
4 How much of your practice is devoted to
5 criminal law?

6 PROSPECTIVE JUROR: Right now, almost
7 none. That was -- I started doing civil
8 litigation about a year ago.

9 MR. WALSH: You've been involved I
10 imagine, in criminal litigation, as well?

11 PROSPECTIVE JUROR: At the moment, no.

12 MR. WALSH: How do you feel about what
13 we're talking about. Police officers,
14 whether they're any more likely or less
15 likely to tell the truth?

16 PROSPECTIVE JUROR: They're just
17 people.

18 MR. WALSH: It's hard for me to get
19 used to actually having lawyers, and
20 criminal lawyers, on jury panels now. To
21 tell the truth, I haven't figured out
22 whether or not -- what kind of an effect a
23 criminal defense lawyer's background would
24 have on their ability to serve fairly and
25 impartially. If you were me standing up

1
2 here asking you the questions, would you be
3 concerned about having you as a juror?

4 PROSPECTIVE JUROR: Probably.

5 MR. WALSH: Why is that.

6 PROSPECTIVE JUROR: Only because I am a
7 lawyer. I have represented one side. I
8 don't think I would be any less likely to be
9 a problem than anyone else. I think I could
10 be impartial.

11 MR. WALSH: Just as anyone else. You
12 don't think your background would hurt your
13 ability to be fair and impartial to either
14 side. Again, I haven't really figured
15 out -- it's something that could cut both
16 ways, actually.

17 PROSPECTIVE JUROR: Of course, it
18 could.

19 MR. WALSH: You feel it's not going to
20 be a problem, and you could be fair and
21 impartial?

22 PROSPECTIVE JUROR: I think I can be.
23 Yes.

24 MR. WALSH: You had indicated
25 Mrs. Carlson, that you had a brother who had

1
2 been convicted of a crime.

3 PROSPECTIVE JUROR: Yes.

4 MR. WALSH: First of all, how do you
5 feel that he was treated; first by the
6 police, in the case he was involved in.

7 PROSPECTIVE JUROR: I'm not really
8 aware of how he was treated, at all. I was
9 much younger. You know, he did go to prison
10 for his crime.

11 MR. WALSH: Where did that occur.

12 PROSPECTIVE JUROR: The actual
13 incident, I'm not really sure. I believe it
14 was Pennsylvania.

15 MR. WALSH: Were you left with any
16 impression, one way or the other, about the
17 criminal justice system? I know you said
18 you were young. Would that cause you any
19 problems as far as sitting fairly and
20 impartially?

21 PROSPECTIVE JUROR: No. Not at all.

22 MR. WALSH: The horrible incident
23 involving your brother, the brother who was
24 murdered -- twenty-six years ago?

25 PROSPECTIVE JUROR: Right.

1
2 MR. WALSH: How -- do you feel that
3 that would affect your ability to be fair in
4 this case?

5 PROSPECTIVE JUROR: I don't think so.

6 MR. WALSH: Any other reasons you feel
7 you would have any difficulty being a fair
8 and impartial juror?

9 PROSPECTIVE JUROR: I don't think I
10 would have any difficulty.

11 MR. WALSH: Mr. Perilis, I know you had
12 indicated on your questionnaire that you
13 possibly had difficulty staying overnight.
14 Do you foresee that being a problem?

15 PROSPECTIVE JUROR: No.

16 MR. WALSH: Up until this point in
17 time, I know that you said you've been in
18 the country for sixteen years. Have you had
19 any difficulty understanding anything that I
20 have said or Judge Boklan has said? In
21 other words, do you feel that language could
22 be a difficulty for you, if you were chosen?

23 PROSPECTIVE JUROR: No.

24 MR. WALSH: Any other reason -- any
25 reason you feel you couldn't be fair and

1
2 impartial.

3 PROSPECTIVE JUROR: Yes.

4 MR. WALSH: You feel you could be fair?

5 PROSPECTIVE JUROR: Yes.

6 MR. WALSH: Mr. Blakely, I know you
7 told us about an incident involving your
8 son.

9 PROSPECTIVE JUROR: That's right.

10 MR. WALSH: I noticed you had brought
11 up what the sentence was. Were you left
12 with anything from that experience, the
13 incident involving your son, that would
14 cause you any difficulty sitting in this
15 case?

16 PROSPECTIVE JUROR: The defendant went
17 to trial and was sentenced. It was fair, I
18 felt it was a fair trial. He had diminished
19 capacity. He just was driving a car without
20 a license or registration. He claimed he
21 wasn't really responsible.

22 MR. WALSH: Do you feel the police
23 handled that --

24 PROSPECTIVE JUROR: It was handled very
25 well.

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2 MR. WALSH: Did that occur here in
3 Nassau County?

4 PROSPECTIVE JUROR: It did.

5 MR. WALSH: Did you deal with the
6 district attorney's office?

7 PROSPECTIVE JUROR: Yes.

8 MR. WALSH: How did you feel the
9 district attorney's office handled the case?

10 PROSPECTIVE JUROR: They prosecuted the
11 case with the evidence they had.

12 MR. WALSH: Were you satisfied with the
13 job they did?

14 PROSPECTIVE JUROR: Yes.

15 MR. WALSH: Any reason you couldn't
16 give the defendant a fair trial?

17 PROSPECTIVE JUROR: This case has no
18 relevance to what happened to my son.

19 MR. WALSH: How about you, Mr. Keller?
20 I know you indicated that you had an uncle
21 who was convicted of a crime.

22 First of all, were you left with any
23 feelings, given that incident, about the
24 police, or how they handled that case?

25 PROSPECTIVE JUROR: No.

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MR. WALSH: Where did that occur?

PROSPECTIVE JUROR: I believe it was
Suffolk.

MR. WALSH: How about the district
attorney's office?

PROSPECTIVE JUROR: I really didn't
have any involvement, as far as the details.

MR. WALSH: Any reason you feel you
couldn't be fair and impartial?

PROSPECTIVE JUROR: No.

MR. WALSH: Mr. Mastelone, I'm going to
ask you a few questions. Does it matter to
you, in this case, whether the victim is
black or white?

PROSPECTIVE JUROR: Not at all.

MR. WALSH: Does it matter to you in
this case, whether the victim is male or
female?

PROSPECTIVE JUROR: No.

MR. WALSH: Young or old?

PROSPECTIVE JUROR: Well, no; it
doesn't.

MR. WALSH: If I were to tell you that
the victim in this case, the person who was

1
2 killed, sold drugs during the course of his
3 lifetime, would that matter to you, as far
4 as whether or not you would take this case
5 as seriously?

6 PROSPECTIVE JUROR: That wouldn't
7 matter to me.

8 MR. WALSH: Ma'am, how about you? Same
9 questions. First of all, does it matter
10 whether the victim is black or white, male
11 or female?

12 PROSPECTIVE JUROR: No.

13 MR. WALSH: That has nothing to do with
14 whether or not I prove to you beyond a
15 reasonable doubt that this defendant
16 committed the crime.

17 Now, none of those things would cause
18 you to take the case any more or less
19 seriously?

20 PROSPECTIVE JUROR: Right.

21 MR. WALSH: What if you found out, and
22 unrelated to whether or not I actually prove
23 the charges beyond a reasonable doubt, that
24 the victim was somebody who sold drugs
25 during the course of his lifetime?

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2 PROSPECTIVE JUROR: That doesn't
3 matter.

4 MR. WALSH: Would that tend to make you
5 take the case any less seriously?

6 PROSPECTIVE JUROR: No.

7 MR. WALSH: Ms. Thompson, how about
8 you?

9 PROSPECTIVE JUROR: No.

10 MR. WALSH: You wouldn't take the case
11 any more or less seriously, depending on who
12 the victim was, or what he or she may have
13 been during the course of their lives; as
14 long as it had no relation to whether or not
15 I proved the case to you beyond a reasonable
16 doubt?

17 PROSPECTIVE JUROR: Right.

18 MR. WALSH: How about you, Mrs. Reisch?

19 PROSPECTIVE JUROR: No.

20 MR. WALSH: Anybody who would have any
21 difficulty with that?

22 PROSPECTIVE JUROR: It would matter to
23 me -- how young was the victim? I work with
24 children a lot. It would matter to me if it
25 was a child. I would probably be more

1
2 sympathetic if it was a child.

3 MR. WALSH: I don't think you're going
4 to find the victim was a child. If the
5 Court wouldn't mind me saying, it was
6 somebody probably in their twenties.

7 Based on what you said, let me ask you
8 a few more questions. You mentioned
9 sympathy. Given, in your case, if the
10 victim was young, that's something that
11 might affect you. You would have maybe more
12 sympathy for the victim?

13 PROSPECTIVE JUROR: Right.

14 MR. WALSH: If you remember, one of the
15 first things the Judge said when you came
16 into the courtroom, was that your job as a
17 juror, and a jury, is to find the facts.
18 Basically, to determine what happened here.
19 That's based upon whether or not, as I said
20 before, I prove to you, beyond a reasonable
21 doubt, that the defendant committed the
22 crime he's charged with.

23 Emotional considerations, sympathy, or
24 even anger for one side or the other, don't
25 play any role in a juror's job, basically,

1
2 of finding the facts. All the sympathy or
3 the anger you could have for either the
4 victim or the defendant, can't change what
5 happened and whether or not I prove it to
6 you beyond a reasonable doubt.

7 So you're asked to basically evaluate
8 the evidence and come to a verdict, if you
9 possibly can, without regard to emotional
10 considerations. That's a very easy thing
11 for me to get up here and ask you to do.
12 It's a very difficult thing for people
13 sitting in your position to put into
14 practice.

15 Do you think you might have difficulty
16 with that part of being a juror?

17 PROSPECTIVE JUROR: I don't think so.
18 No.

19 MR. WALSH: Anybody else feel they
20 would have any difficulty with that?

21 Let me ask it another way.
22 Ms. Thompson, assume, for the purposes of
23 the question I'm going to ask you, that
24 you're chosen as a juror. You listen to the
25 evidence. You go back into the jury room to

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2 deliberate. At the end of it all, you're
3 convinced beyond a reasonable doubt that I
4 have proven that the defendant committed the
5 crimes that are charged in the indictment.
6 Would you have any difficulty, if you felt
7 any type of emotion creeping in -- whether
8 sympathy or anger -- would you have any
9 difficulty setting that aside, and only if I
10 prove the case to you beyond a reasonable
11 doubt, come back in this courtroom, stand
12 up, face the defendant and find him guilty
13 of murder in the second degree?

14 PROSPECTIVE JUROR: Would I have any
15 difficulty? No, I wouldn't. If he's
16 guilty, he's guilty.

17 MR. WALSH: If I don't prove the case,
18 you'll come in here and find him not guilty?

19 PROSPECTIVE JUROR: Not guilty.

20 MR. WALSH: Whatever your verdict is,
21 can we have your assurance, if you could
22 possibly give it to us, that it will be
23 based on the evidence and nothing else?

24 PROSPECTIVE JUROR: Yes.

25 MR. WALSH: That's basically the

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2 question that I'm asking all of you right
3 now. That's the question you have to answer
4 when you talk about sympathy. Do I have
5 everybody's assurance, that whatever your
6 verdict is, it will be based upon the
7 evidence and nothing else?

8 Before I sit down, is there any reason
9 I haven't brought up, or Judge Boklan hasn't
10 addressed, why any of you feel you couldn't
11 be fair and impartial in this case?

12 Thank you very much.

13 THE COURT: Mr. Brettschneider.

14 MR. BRETTSCHEIDER: Good afternoon.
15 I'm going to get right to the heart of it.
16 Certainly when you walked into the
17 courtroom, you probably didn't realize at
18 that time, that you potentially could sit on
19 a murder case. Certainly, I don't have to
20 tell you what's at stake for Mr. Jackson in
21 this case.

22 So let me reiterate what the Judge said
23 and Mr. Walsh said about being as honest and
24 as truthful as you could be, as to whether
25 this case is right for you.

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2 Essentially, I ask -- you know, you may
3 be a perfect juror for another type of case.
4 Based on your background or affiliation,
5 this case may not be right for you.

6 Mr. Blakely, I need to find out from
7 you, based upon -- I mean, a horrible
8 experience. You went through the criminal
9 justice system as a victim's parent. Now,
10 you're being asked to sit as a juror, and be
11 impartial as you possibly can be, in a case
12 which is, you know, extremely serious.

13 Based on what you went through, and
14 based upon what you went through as part of
15 the criminal justice system from the other
16 side, do you feel this case is right for
17 you?

18 PROSPECTIVE JUROR: I don't feel
19 totally comfortable with a murder. Nobody
20 would. What I went through is considered to
21 be a vehicle homicide. The defendant was
22 sentenced. You know, he was given a
23 sentence that I thought was kind of light.
24 Yet, he wasn't really responsible.

25 MR. BRETTSCHEIDER: I think when you

1
2 told the story, when people heard six months
3 and five years probation, it normally would
4 be -- without being present at the trial --
5 anybody would say, it seems to be a light
6 sentence. Based upon the fact that it was a
7 light sentence and something that you
8 probably don't feel --

9 PROSPECTIVE JUROR: I didn't feel
10 totally comfortable with it.

11 MR. BRETTSCHEIDER: Based on that, and
12 you're sitting here. Right now, you may
13 feel you could be fair. I want to know if,
14 halfway through the trial, you may say to
15 yourself, this brings back certain feelings
16 that I haven't had for maybe ten years.
17 What I'm asking you now is, whether there's
18 a possibility that those feelings could come
19 back --

20 PROSPECTIVE JUROR: It's possible;
21 sure. Sure, it's possible.

22 MR. BRETTSCHEIDER: In a negative
23 sense.

24 PROSPECTIVE JUROR: Well, it would be
25 negative, I would think. I need to hear

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2 both sides of the case. I would make a
3 judgment. It brings back a lot of memories;
4 sure.

5 MR. BRETTSCHEIDER: Ms. Carlson, same
6 question. Certainly, although it's been
7 many, many years. Loved ones are never
8 forgotten. A situation such as what
9 happened in your past, somewhere in the
10 middle of the trial, or even if you go home
11 and the Judge says to you, listen, you're
12 not supposed to talk about the case. You
13 tell your family members, I'm on a murder
14 trial. Somebody brings back what happened
15 to your brother. Somewhere down deep as you
16 sit and listen to evidence, is something
17 going to come back to you, or are you going
18 to have certain emotions that maybe you
19 don't feel like you'll have now; but I mean,
20 even sitting here, how do you feel about
21 sitting on this case?

22 PROSPECTIVE JUROR: I'm fine with it.
23 I was a small child at the time, as tragic
24 as it was. I can definitely be fair.

25 MR. BRETTSCHEIDER: I have to ask the

1
2 question, because sometimes you shake your
3 head yes, sometimes, you shake your head,
4 no. Looking at your background and your
5 education, there's a lot of things you bring
6 with you as a juror. This particular case,
7 based on the number of police witnesses,
8 somewhere along the line, you're going to
9 listen to many police officers and say, you
10 know something. They don't really have a
11 motive to lie. Based on maybe just your
12 experiences with your husband, do you feel
13 as though this is the right case for you?

14 PROSPECTIVE JUROR: No. Because it is
15 such a serious thing. I would want very
16 much to be impartial. I can't guarantee you
17 that I would be.

18 MR. BRETTSCHEIDER: You had some
19 concerns. I'm going to ask you the same
20 question. Based on what you have heard so
21 far, and the fact that there may be
22 photographs of the deceased, which may be
23 graphic. Based on your own emotions, is
24 this case right for you?

25 PROSPECTIVE JUROR: Some of it bothers

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2 me already; some of the charges.

3 MR. BRETTSCHEIDER: Bothering you to
4 the point where, somewhere in the back of
5 your mind, you're saying, I don't know if I
6 can be fair.

7 PROSPECTIVE JUROR: Probably.

8 MR. BRETTSCHEIDER: Anybody else feel
9 the same way, based on just what they heard?
10 Ms. Janow, certainly, there is a victim in
11 this case. Whatever he did during his
12 lifetime, I mean, that may come out during
13 the trial. Someone did die.

14 Certainly, our sympathy always goes out
15 to a victim. You may see photographs of the
16 deceased in this case. You may hear what
17 happened, which certainly may have an
18 effect. Could sympathy outweigh your
19 ability to be fair and impartial?

20 PROSPECTIVE JUROR: I don't think so.

21 MR. BRETTSCHEIDER: Why do you feel
22 that way?

23 PROSPECTIVE JUROR: Why do I feel that
24 way? I take what the Judge said very
25 seriously. I'm not going to have any

1
2 predisposition.

3 MR. BRETTSCHEIDER: Mr. Westfall, have
4 you ever, in your career as a police
5 officer, ever dealt with a homicide case?

6 PROSPECTIVE JUROR: Yes.

7 MR. BRETTSCHEIDER: On how many
8 occasions?

9 PROSPECTIVE JUROR: Directly as the
10 assigned officer?

11 MR. BRETTSCHEIDER: No. Could have
12 come to the scene.

13 PROSPECTIVE JUROR: Maybe a dozen or so
14 times.

15 MR. BRETTSCHEIDER: Based on these
16 experiences, which I'm sure, no matter how
17 long you've been a police officer, they're
18 not pleasant experiences --

19 PROSPECTIVE JUROR: No.

20 MR. BRETTSCHEIDER: Really what I want
21 to know is, based on what you've seen and
22 observed as to police officers, sitting on a
23 case such as this; and also the knowledge
24 that you have, you may know as a police
25 officer, do you feel you could be fair?

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2 PROSPECTIVE JUROR: I feel I can be
3 impartial and just view the evidence.

4 MR. BRETTSCHEIDER: Let me give you a
5 situation and see how you feel about this.
6 Detective gets on the stand, says, I've been
7 a detective for twenty years. I took a
8 statement from a witness. The witness told
9 me X, Y and Z. The fact that he took the
10 statement from a witness, does that
11 necessarily mean the witness was telling the
12 truth?

13 PROSPECTIVE JUROR: No.

14 MR. BRETTSCHEIDER: What about if it
15 was a statement by the defendant in this
16 case. It was taken by a police officer
17 during an interrogation. Does that
18 necessarily mean that whatever the defendant
19 told the police officers is the truth?

20 PROSPECTIVE JUROR: No.

21 MR. BRETTSCHEIDER: Is it possible
22 somebody could be forced to make a statement
23 against his will by a police officer?

24 MR. WALSH: Objection.

25 THE COURT: Sustained.

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2 MR. BRETTSCHEIDER: Well, in your
3 experience, have you ever taken a statement
4 from somebody who was arrested for a crime?

5 PROSPECTIVE JUROR: Yes.

6 MR. BRETTSCHEIDER: Are you skilled in
7 interrogation techniques? Were you trained?

8 PROSPECTIVE JUROR: I'm not a
9 detective. We have had -- we do first
10 on-the-scene-type of preliminary statements.
11 They're always interviewed by detectives
12 later on.

13 MR. BRETTSCHEIDER: You say you have
14 worked with auxiliary police officers in
15 Queens?

16 PROSPECTIVE JUROR: Yes.

17 MR. BRETTSCHEIDER: How long have you
18 worked in Queens County.

19 PROSPECTIVE JUROR: 1981.

20 MR. BRETTSCHEIDER: What precinct.

21 PROSPECTIVE JUROR: 113, 103, 101, 104.

22 MR. BRETTSCHEIDER: Ms. Jackson, you
23 have a fiance who's a police officer.
24 Certainly, based on the situation that there
25 are going to be police officers testifying

1
2 in this case, how do you feel about that?

3 PROSPECTIVE JUROR: Doesn't affect me
4 either way.

5 MR. BRETTSCHEIDER: Why.

6 PROSPECTIVE JUROR: I'll listen to the
7 evidence and take it for what it's worth.

8 MR. BRETTSCHEIDER: A police officer
9 get on the stand, raises his right hand and
10 says, I swear to tell the truth. Does that
11 mean it's so?

12 PROSPECTIVE JUROR: Not necessarily. I
13 assume everybody will say that. I have to
14 take it for what they give me.

15 MR. BRETTSCHEIDER: If, for example,
16 somebody gets on the witness stand and tells
17 a story as to occurrences that happened over
18 a certain period of time. Then it comes out
19 that that witness has told a story in the
20 past, and it's inconsistent. What would you
21 think about that person's reliability as far
22 as their truthfulness?

23 PROSPECTIVE JUROR: I may have a little
24 bit of doubt about it; depending on what --
25 what relationship they had to the case,